



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

Office of the
Secretary

Phone: (302) 739-9000
Fax: (302) 739-6242

Secretary's Order No.: 2018-W-0050

RE: Application of Denali Water Solutions to amend its existing Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601 to include the transporting of industrial process wastewater from a de-boning operation at Allen Harim's Millsboro facility to Allen Harim's Harbeson facility

Date of Issuance: September 4, 2018

Effective Date: September 4, 2018

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6003, 6004(b), 6006(4), and all other relevant statutory authority, the Department issues this Order, approving an amendment to existing State of Delaware Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601 ("permit"), currently held by Denali Water Solutions ("Denali," "Applicant").

Applicant's existing Permit provides for the inventory of vehicles, vehicle requirements, and the proper equipping of the vehicles for transporting non-hazardous liquid waste over public roads. Denali is requesting to amend its Permit to also include the transporting of industrial process wastewater from a de-boning operation of Allen Harim's Millsboro facility (formerly Vlastic and Pinnacle) to Allen Harim's Harbeson facility ("Application").

BACKGROUND AND FINDINGS OF FACT

The State of Delaware's Non-Hazardous Liquid Waste Transporters Permits are issued by the Groundwater Discharges Section ("GWDS") of the Department's Division of Water, under the authority of 7 DE Admin. Code 7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems*. In addition to the provisions previously listed above, Denali's current permit also governs the safe hauling, conveyance, or transport of any non-hazardous liquid waste with the intention of delivering the waste from one location to another over the public roads of the State of Delaware.

After finding the Application (dated February 9, 2018) submitted by Denali to be administratively complete, the same was placed on public notice by the Department on February 18, 2018 to open the fifteen day public comment period. During the public notice period, the GWDS received several requests for a public hearing regarding this matter. Accordingly, the Department held its public hearing concerning this matter at the Milton Public Library in Milton, Delaware on Wednesday, April 11, 2018. The aforementioned hearing was attended not only by Department staff and representatives of the Applicant, but also by approximately eighty-five (85) individuals from the public, who offered comment for inclusion into the formal hearing record generated in this matter. It should also be noted that, given the number of people wishing to offer comment at that time, the Department extended the comment period beyond the close of the public hearing held on April 11, 2018, and accepted comment regarding this permitting matter through Friday, April 27, 2018. Proper notice of the hearing was provided as required by law.

Following the close of the public comment period on April 27, 2018, the technical experts in the Department's Division of Water prepared a Technical Response Memorandum ("TRM") to (1) specifically address the public concerns raised at the time of the hearing; (2) provide a formal regulatory review of the Applicant's proposed project; and (3) offer the Division of Water's conclusions and recommendations with regard to this pending Application for the benefit of the hearing record generated in this matter. This TRM was subsequently received from the Division of Water for inclusion into the hearing record by Hearing Officer Lisa A. Vest.

Thereafter, Hearing Officer Vest prepared her Hearing Officer's Report ("Report"), which attached the aforementioned TRM as referenced above, and expressly incorporated the same therein. Ms. Vest's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend that the Department approve this Application, subject to the conditions set forth in the draft Permit No. DE OH-601. The Report also addressed the public comments received in this matter, and concluded that the same did not warrant the Department's denying this Application, or delaying the permit decision to receive additional information.

REASONS AND CONCLUSIONS

This application is for the amendment of existing Non-Hazardous Liquid Waste Transportation Permit No. DE OH-601. The current Permit allows Denali Water Solutions to transport municipal or industrial biosolids and/or other non-hazardous liquid waste in the State of Delaware. I find that the Applicant's proposed permit amendment would allow the transporting of industrial process wastewater from a de-boning operation of Allen Harim's Millsboro facility to Allen Harim's Harbeson facility. I further find that such amendments to existing State of Delaware's Non-Hazardous Liquid Waste Transporters Permits are issued by the Groundwater Discharges Section of the Department's Division of Water, under the authority of 7 DE Admin. Code 7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems*.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department's experts in the Division of Water have concluded that all regulatory requirements have been met by the Applicant in this matter, and have therefore recommended the amendment of existing State of Delaware Non-Hazardous Liquid Waste Transportation Permit No. DE OH-601, in accordance with Denali's permit amendment Application.

The concerns voiced at the April 11, 2018 public hearing have been addressed in the Department's aforementioned TRM. With regard to the public comments regarding impacts to groundwater from land application of waste in the area, those activities are governed by 7 DE Admin. Code 7103, *Regulations Governing the Land Treatment of Waste*, and thus fall outside the purview of this specific Application. The public may, however, submit comment concerning such activities for the Department's consideration during future permit application and renewal process reviews for Agricultural Utilization Permits governing such activities in this area.

In response to the public concerns raised about the proposed hauling activities under this Application, it should be noted that Denali's existing Permit already authorizes the transport of municipal or industrial biosolids and/or other non-hazardous liquid waste in the State of Delaware to specified locations. The proposed permit amendment would add Allen Harim's Harbeson facility as an additional authorized destination, and allow generated wastes from Allen Harim's Millsboro facility (e.g., industrial process wastewater from a chicken de-boning process) to be transported by Denali to Allen Harim's Harbeson facility for treatment and final disposal, in accordance with the Applicant's existing Permit.

It should be further noted that the proposed permit amendment would also mandate that none of the aforementioned wastes shall be deposited into ditches, watercourses, lakes, ponds, tidewater sources, landed property, or at any point other than the disposal site(s) listed above. All waste material collected by the permittee shall be transported and disposed of in accordance with Department regulations, and upon authorization by the disposal site(s) listed above. None of these wastes may be disposed of within the State of Delaware without specific permission of the Department. All vehicles used for such 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. Moreover, the Department notes that the Applicant is responsible for the operation and maintenance of all vehicles operated under this permit, and that all transporters shall maintain a current copy of their plan for the prevention, control, and cleanup of accidental discharges on file with the Division of Water's GWDS.

Currently, there is no operation permit in place for ANSRWRF. However, the Department does not anticipate that the incorporation of this additional waste stream into an operation permit for ANSRWRF would require any special permit conditions, since the facility would have the necessary capacity to store and spray it. Again, as with the public's concerns regarding the Agricultural Utilization aspects of this additional waste stream referenced above, the public will have the ability to provide comment on operations at ANSRWRF once an operation permit application is received by the Department and placed on public notice accordingly.

I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the statutes and regulations, as noted herein, and that the record supports approval of the permit amendment Application submitted by Denali Water Solutions. Accordingly, this Order approves and directs that an amendment to existing State of Delaware Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601, to include the transporting of industrial process wastewater from a de-boning operation of Allen Harim's Millsboro facility to Allen Harim's Harbeson facility, consistent with the record developed in this matter, be issued by the Department in the customary form, and with appropriate conditions.

Further, the Department concludes and directs the following:

1. The Department has jurisdiction under 7 *Del. C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, to make a final determination on the Application, after holding a public hearing and considering the public comments and all information contained in the Record generated in this matter;
2. The Department provided proper public notices of the Application submitted by Denali Water Solutions, and of the public hearing held on April 11, 2018, and held said hearing in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the Report, prior to issuing this Order as its final decision;

Lastly, the Department's aforementioned TRM provides a detailed response to the public comments regarding the ability of Allen Harim's Harbeson facility to accept this process wastewater, the treatment of the wastewater prior to spray irrigation, the potential impacts of the same on the community, the additional permitting requirements (if any) that the Artesian Northern Sussex Regional Water Recharge Facility ("ANSRWRF") would have to meet, and the overall manner in which DNREC reviews and considers such permit applications. The Department agrees that, under the context of a Non-Hazardous Liquid Waste Transportation Permit, consideration must be given to the nature of the waste to be transported, as well as the final destination/disposition of the same.

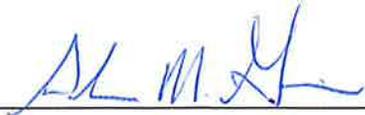
Pursuant to the regulatory requirements which govern such permit issuance, the Applicant is required to submit the following information as a component of the amended permit application: (1) a description of the non-hazardous liquid waste, including the source of the waste, the quantity to be transported, and any treatment the waste has undergone before transportation; and (2) the destination of the non-hazardous liquid waste, a description of what is to be done with the waste at the destination, and a copy of the permit/authorization letter from each disposal facility. This information was submitted by Denali as part of its Application, and the same has been taken into consideration by the Department in this matter.

Allen Harim's Harbeson Wastewater Treatment facility is currently permitted through the National Pollutant Discharge Elimination System ("NPDES") Program of the Division of Water, Surface Water Discharges Section. Allen Harim's Harbeson facility already treats this type of process wastewater, and has the capacity needed to accept and properly treat this industrial process wastewater to meet the effluent limits in its existing NPDES permit. The Applicant's proposed permit amendment will allow the additional process wastewater to be transported by Denali to Allen Harim's Harbeson facility, until such time as the spray irrigation facility at Allen Harim's Millsboro facility is permitted and operational.

4. The Department has carefully considered the factors required to be weighed in issuing an amendment to the Applicant's existing Permit, and finds that the Record supports approval of the Application and issuance of the amendment to Applicant's existing Permit No. DE OH-601;
5. The Department shall issue an amendment to the Applicant's current State of Delaware Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601, to now include the transporting of industrial process wastewater from a de-boning operation at Allen Harim Millsboro to Allen Harim's Harbeson facility. Furthermore, said Permit shall include all conditions as set forth in the Department's draft permit, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department adopts the Report and its attachments as further support for this decision;
7. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
8. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.

Date

8/4/18


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

HEARING OFFICER'S REPORT

TO: The Honorable Shawn M. Garvin
Cabinet Secretary, Department of Natural Resources and Environmental Control

FROM: Lisa A. Vest
Public Hearing Officer, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: Application of Denali Water Solutions to amend its existing Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601 to include the transporting of industrial process wastewater from a de-boning operation at Allen Harim's Millsboro facility to Allen Harim's Harbeson facility

DATE: August 22, 2018

I. BACKGROUND AND PROCEDURAL HISTORY:

A public hearing was held on Wednesday, April 11, 2018, at 7:00 p.m. by the Department of Natural Resources and Environmental Control ("DNREC," "Department") at the Milton Public Library in Milton, Delaware, to receive comment on the application of Denali Water Solutions ("Denali," "Applicant") to amend its current State of Delaware Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601 ("permit"). The Applicant's current Permit provides for the inventory of vehicles, vehicle requirements, and the proper equipping of the vehicles for transporting non-hazardous liquid waste over public roads. Denali is requesting to amend its existing Permit to also include the transporting of industrial process wastewater from a de-boning operation of Allen Harim's Millsboro facility (formerly Vlastic and Pinnacle) to Allen Harim's Harbeson facility ("Application").

The State of Delaware’s Non-Hazardous Liquid Waste Transporters Permits are issued by the Groundwater Discharges Section (“GWDS”) of the Department’s Division of Water, under the authority of 7 DE Admin. Code 7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems*. In addition to the provisions previously listed above, Denali’s current permit also governs the safe hauling, conveyance, or transport of any non-hazardous liquid waste with the intention of delivering the waste from one location to another over the public roads of the State of Delaware.

The Application from Denali (dated February 9, 2018) to amend its current Permit was placed on public notice by the Department on February 18, 2018 to open the fifteen day public comment period. During the public notice period, the GWDS received several requests for a public hearing regarding this matter.

The Department held its public hearing concerning this matter at the Milton Public Library in Milton, Delaware on April 11, 2018. The hearing was attended not only by Department staff and representatives of the Applicant, but also by approximately eighty-five (85) individuals from the public. Comment was received from the public at that hearing, and will be discussed in further detail below. Proper notice of the hearing was provided as required by law.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The public hearing record consists of the following documents: (1) a verbatim transcript; (2) eleven documents representing the Department’s Exhibits concerning this permitting matter; (3) correspondence from Ray Ebaugh, Director of Planning and Development, Tidewater Utilities, Inc., dated November 28, 2017, offered by Andrea Green at the public hearing held on April 11, 2018 and marked as “Green Ex. 1” by presiding Hearing Officer Robert Haynes; and (4) Technical Response Memorandum (“TRM”) dated August 20, 2018, from Jack Hayes,

Environmental Program Manager, GWDS, through the Division of Water Management, including, but not limited to, Jennifer Roushey, Environmental Program Administrator. The Department's person primarily responsible for reviewing this Application, Mr. Hayes, as referenced above, developed the record with the relevant documents in the Department's files.

The hearing record generated in this matter indicates that the comments made during the public hearing were made by citizens concerned about the existing pollution in the area (i.e., groundwater pollution from the land application of sludge). A variety of questions were also raised concerning the proposed hauling activities under this Application which, as noted previously, would add Allen Harim's Harbeson facility as a destination to the Applicant's current permit. Additional comments questioned the ability of Allen Harim's Harbeson facility to accept this process wastewater, how such process wastewater will be treated prior to being spray irrigated, how this additional wastewater will impact the residents of Milton, Delaware, and what additional permitting requirements would the Artesian Northern Sussex Regional Water Recharge Facility ("ANSRWRF") have to meet. Lastly, comments were made that requested the Department to not look at these transportation permits as just the moving of non-hazardous liquid waste from one authorized location to another location, but rather consider the same holistically, in conjunction with the activities occurring at both locations. It should also be noted that, given the number of people wishing to offer comment for inclusion into the hearing record in this matter, the Department extended the comment period subsequent to the public hearing of April 11, 2018, and accepted comment regarding this permitting matter through Friday, April 27, 2018.

Following the close of the public comment period on April 27, 2018 (and in response to the concerns voiced by the public in this matter), the technical experts in the Department's Division of Water prepared a Technical Response Memorandum ("TRM") to (1) specifically address the public concerns raised at the time of the hearing; and (2) offer conclusions and recommendations with regard to this pending Application for the benefit of the hearing record generated in this matter.

In its TRM, the Department's experts in the Division of Water address the aforementioned public concerns in this matter. With regard to the public comments regarding impacts to groundwater from land application of waste in the area, the Department notes that those activities are governed by 7 DE Admin. Code 7103, *Regulations Governing the Land Treatment of Waste*, and thus fall outside the purview of this specific Application. The public may, however, submit comment concerning such activities for the Department's consideration during future permit application and renewal process reviews for Agricultural Utilization Permits governing such activities in this area.

In response to the concerns raised about proposed hauling activities under this Application, it should be noted that Denali's current Permit already authorizes the transport of municipal or industrial biosolids and/or other non-hazardous liquid waste in the State of Delaware to specified locations. The proposed permit amendment, if approved, would add Allen Harim's Harbeson facility as an additional authorized destination. Generated wastes from Allen Harim's Millsboro facility (e.g., industrial process wastewater from a chicken de-boning process) would be transported to Allen Harim's Harbeson facility for treatment and final disposal, or, to other authorized locations, in accordance with the Applicant's existing Permit.

If approved, this permit amendment would also mandate that none of the aforementioned wastes shall be deposited into ditches, watercourses, lakes, ponds, tidewater sources, landed property, or at any point other than the disposal site(s) listed above. All waste material collected by the permittee shall be transported and disposed of in accordance with Department regulations, and upon authorization by the disposal site(s) listed above. Moreover, none of these wastes may be disposed of within the State of Delaware without specific permission of the Department. All vehicles used for such 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. Furthermore, the Department notes that the Applicant is responsible for the operation and maintenance of all vehicles operated under this permit, and that all transporters shall maintain a current copy of their plan for the prevention, control, and cleanup of accidental discharges on file with the Division of Water's GWDS.

Lastly, the Department's aforementioned TRM provides a detailed response to the comments regarding the ability of Allen Harim's Harbeson facility to accept this process wastewater, the treatment of the wastewater prior to spray irrigation, the potential impacts of the same on the community, the additional permitting requirements (if any) that ANSRWRF would have to meet, and the overall manner in which DNREC reviews and considers such permit applications. The Department agrees that, under the context of a Non-Hazardous Liquid Waste Transportation Permit, consideration must be given to the nature of the waste to be transported, as well as the final destination/disposition of the same.

Pursuant to the regulatory requirements which govern such permit issuance, the Applicant is required to submit the following information as a component of the amended permit application: (1) a description of the non-hazardous liquid waste, including the source of the waste, the quantity to be transported, and any treatment the waste has undergone before transportation; and (2) the destination of the non-hazardous liquid waste, a description of what is to be done with the waste at the destination, and a copy of the permit/authorization letter from each disposal facility. This information was submitted by Denali as part of its Application, and the same has been taken into consideration by the Department in this matter.

The Department notes in its TRM that Allen Harim's Harbeson Wastewater Treatment facility is currently permitted through the National Pollutant Discharge Elimination System ("NPDES") Program of the Division of Water, Surface Water Discharges Section. Allen Harim's Harbeson facility already treats this type of process wastewater, and has the capacity needed to accept and properly treat this industrial process wastewater to meet the effluent limits in its existing NPDES permit. If this Application is approved, the additional process wastewater will be transported by Denali to Allen Harim's Harbeson facility, until such time as the spray irrigation facility at Allen Harim's Millsboro facility is permitted and operational.

Currently, there is no operation permit in place for ANSRWRF. However, the Department does not anticipate that the incorporation of this additional waste stream into an operation permit for ANSRWRF would require any special permit conditions, since the facility would have the necessary capacity to store and spray it. Again, as with the public's concerns regarding the Agricultural Utilization aspects of this additional waste stream referenced above, the public will have the ability to provide comment on operations at ANSRWRF once an

operation permit application is received by the Department and placed on public notice accordingly.

I find that the Division of Water's TRM offers a detailed review of all aspects of Denali's Application to amend its existing Permit, identifies all of the concerns raised at the public hearing of April 11, 2018, and responds to them in a balanced manner, accurately reflecting the information contained in the formal hearing record. Thus, the aforementioned TRM is attached hereto as Appendix "A" and expressly incorporated herein as such.

III. RECOMMENDED FINDINGS AND CONCLUSIONS:

This Application is for the amendment of an existing Non-Hazardous Liquid Waste Transportation Permit No. DE OH-601. The current permit allows Denali Water Solutions to transport municipal or industrial biosolids and/or other non-hazardous liquid waste in the State of Delaware. The Applicant's proposed amendment, if approved, would also allow the transporting of industrial process wastewater from a de-boning operation of Allen Harim's Millsboro facility to Allen Harim's Harbeson facility. I find that the State of Delaware's Non-Hazardous Liquid Waste Transporters Permits are issued by the Groundwater Discharges Section of the Department's Division of Water, under the authority of 7 DE Admin. Code 7101, *Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems*.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department's experts in the Division of Water have concluded that all regulatory requirements have been met by the Applicant in this matter, and have therefore recommended the amendment of existing State of Delaware Non-Hazardous Liquid Waste Transportation Permit No. DE OH-601, in accordance with Denali's permit

amendment Application. I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the statutes and regulations, as noted herein, and that the record supports approval of the permit amendment Application as submitted by Denali Water Solutions.

In conclusion, I recommend that an amendment to existing State of Delaware Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601, to now include the transporting of industrial process wastewater from a de-boning operation of Allen Harim's Millsboro facility to Allen Harim's Harbeson facility, consistent with the record developed in this matter, be issued by the Department to Denali Water Solutions in the customary form, and with appropriate conditions.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under 7 *Del. C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, to make a final determination on the Application after holding a public hearing, considering the public comments, and all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Application submitted by Denali Water Solutions, and of the public hearing held on April 11, 2018, and held said hearing to consider any public comment that may be offered on the Application, in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the TRM provided by the Division of Water;

4. The Department has carefully considered the factors required to be weighed in issuing an amendment to the Applicant's existing Permit, and finds that the Record supports approval and issuance of same;
5. The Department shall issue an amendment to the Applicant's current State of Delaware Non-Hazardous Liquid Waste Transporters Permit No. DE OH-601, to now include the transporting of industrial process wastewater from a de-boning operation at Allen Harim Millsboro to Allen Harim's Harbeson facility. Furthermore, said permit shall include all conditions as set forth in the Department's draft permit, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
7. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.



LISA A. VEST
Public Hearing Officer

APPENDIX "A"



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

EXHIBIT
 tabbies
 Ex. #4 (LHV)

RECEIVED
 AUG 21 2018
 DNREC Hearing Officer

TECHNICAL RESPONSE MEMORANDUM

To: Lisa A. Vest, Hearing Officer

Through: Virgil Holmes, Director of Water *1/1/8/20/18*
 Jennifer Roushey, Environmental Program Administrator, Division of Water *JR 8/20/18*
 Ping Wang, Environmental Program Manager, Groundwater Discharges Section *P.W. 8/20/18*

From: Jack Hayes, Environmental Program Manager, Groundwater Discharges Section *JH 8/20/18*

Subject: Denali Water Solutions, Non-Hazardous Liquid Waste Transporters Permit (OH-601) Amendment

Date: August 20, 2018

BACKGROUND

The Groundwater Discharges Section (GWDS), Division of Water, Department of Natural Resources and Environmental Control (Department) received an application from Denali Water Solutions for the amendment of its Non-Hazardous Liquid Waste Transporters Permit (OH-601). After finding that the application was administratively complete, the GWDS advertised the application. This permit provides for the inventory of vehicles, vehicle requirements, and the proper equipping of the vehicles for transporting non-hazardous liquid waste over public roads. Denali Water Solutions is amending its permit to include the transporting of industrial process wastewater from a de-boning operation at Allen Harim Millsboro (formerly Vlastic and Pinnacle) to Allen Harim's Harbeson facility. The GWDS received a request for a public hearing regarding this application was received and scheduled a hearing for April 11, 2018 commencing at 7:00 pm at the Milton Public Library in Milton, Delaware.

The Public Hearing was held on April 11, 2018 and presided over by Robert Haynes, the Public Hearing Officer. Approximately eighty-five (85) people attended the Public Hearing and public comments were provided by fifteen (15) individuals. In addition, written comments were also received from interested parties. The comment period regarding this application was held open until April 27, 2018. The Department's GWDS has reviewed the hearing transcript and all comments received and consolidated comments into topic areas for response. This Technical Response Memorandum (TRM) addresses public comments received regarding the pending amendment of the GWDS Non-Hazardous Liquid Waste Transportation Permit (OH-601) for Denali Water Solutions. This TRM was prepared at the request of the current Hearing Officer, Lisa A. Vest, to assist in the completion of the Hearing Officer's Report to the Secretary. In

Delaware's good nature depends on you!

addition, this TRM provides information to help inform the final decision on issuance of the above-captioned permit.

GWDS responses are provided below in *italics* for clarity.

Response to Public Comments

1. There were multiple comments (written and oral) regarding existing pollution in the area (i.e. existing groundwater pollution from the land application of sludge).

The permit renewal that is the subject of this application is the Denali Water Solutions (Denali), Non-Hazardous Liquid Waste Transporters Permit (OH-601). This permit is issued under 7 DE Admin. Code 7101, Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems. This permit specifically governs the safe hauling, conveyance, or transport of any non-hazardous liquid waste with the intention of delivering this non-hazardous liquid waste from one location to another over the public roads of the State of Delaware.

The Department appreciates the comments presented on citizen concerns regarding impacts to groundwater from land application of waste in the area. However, such activities are governed by 7 DE Admin. Code 7103, The Regulations Governing the Land Treatment of Waste and fall outside the purview of this Non-Hazardous Liquid Waste Transportation amendment application. The public can submit comment concerning land application activities for the Department's consideration during the application and renewal process for Agricultural Utilization Permits governing these activities in this area.

2. A variety of questions were raised concerning proposed hauling activities under this Non-Hazardous Liquid Waste Transportation Permit.

This amendment application for Permit OH-601 would add Allen Harim's Harbeson Facility as a destination to Denali's current permit which authorizes the transport of municipal or industrial biosolids and/or other non-hazardous liquid waste in the State of Delaware to specified locations. This permit is issued under 7 DE Admin. Code 7101, Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems. Generated wastes from Allen-Harim Millsboro's Facility (industrial process wastewater from a chicken de-boning process) would be transported to Allen-Harim's Harbeson Facility for treatment and final disposal or to other authorized locations in accordance with the existing OH-601 permit.

In addition, 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) listed above. All waste material collected by the permittee shall be transported and disposed of in accordance with the regulations of the Department and upon authorization by the disposal site(s) listed above and none of these wastes may be disposed of within the State of Delaware without specific permission of the Department. 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. All transporters shall maintain a current copy of their plan for the

prevention, control, and cleanup of accidental discharges on file with the Department's GWDS.

Additional details surrounding the proposed hauling activities can be found in the permit amendment application submitted by Denali on February 9, 2018, which is included with this hearing record.

- 3. Several comments presented were related to Allen Harim Harbeson's ability to accept this process wastewater, how will this process wastewater be treated prior to being spray irrigated, how will this additional wastewater impact the residents of Milton, and what additional permitting requirements would the Artesian Northern Sussex Regional Water Recharge Facility (ANSRWRF) have to meet. Additionally, comments were made indicating that these transportation permits cannot be looked at solely as the moving of non-hazardous liquid waste from point A to point B. They must be considered in conjunction with the activities occurring at point A and point B which ties these varied comments together.**

The Department agrees that under the context of a Non-Hazardous Liquid Waste Transportation Permit consideration must be given to the nature of the non-hazardous liquid waste to be transported, as well as, the final destination/disposition of the non-hazardous liquid waste. This is addressed within the scope of the permit application as outlined in 7 DE Admin. Code 7101, Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal System, specifically Section 5.3.32.8 and Section 5.3.32.9. These Sections require submission of:

5.3.32.8 A description of the non-hazardous liquid waste to include; the source of the non-hazardous liquid waste, the quantity to be transported, and any treatment the non-hazardous liquid waste has undergone before transportation.

5.3.32.9 The destination of the non-hazardous liquid waste and a description of what is to be done with the non-hazardous liquid waste at the destination and a copy of permit/authorization letter from each disposal facility.

This information was submitted and reviewed as a component of the amended permit application and was taken into consideration prior to processing the permit amendment.

Allen Harim's Harbeson Wastewater Treatment Facility is currently permitted through the NPDES Program of the Division of Water, Surface Water Discharges Section. Allen Harim's Harbeson Facility already treats this type of process wastewater and has the capacity needed to accept and properly treat this industrial process wastewater to meet the effluent limits in their existing NPDES permit. This additional process wastewater will be transported to the Harbeson facility until such time the spray irrigation facility at the Allen Harim Millsboro location is permitted and operational. There currently is no Operation Permit in place for ANSRWRF; however, it is not anticipated that the incorporation of this waste stream into an operation permit for ANSRWRF would require any special permit conditions since the facility would have the necessary capacity to store and spray it. The public will have the ability to provide comment on operations at ANSRWRF once an operation permit application is received and public noticed.

Groundwater Discharges Section Recommendation:

The application is for the amendment of an existing non-hazardous liquid waste transportation permit. The permit allows Denali Water Solutions to transport municipal or industrial biosolids and/or other non-hazardous liquid waste in the State of Delaware. Given that all the regulatory requirements have been met by the permittee for this amendment application, the GWDS recommends the amendment of: **State of Delaware Non-Hazardous Liquid Waste Transportation Permit OH-601** in accordance with the February 9, 2018 amendment request.



Non-Hazardous Liquid Waste Transporters Permit

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

Denali Water Solutions

3308 Bernice Ave
Russelville, AR 72802

Permit Number: **DE OH-601**
Issue Date: 10/27/2013
Amended Date: x/xx/2018
Expiration Date: 10/26/2018

Pursuant to the provisions of 7 Del. C., Chapter 60, and the State of Delaware Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems, permission is hereby granted to Denali Water Solutions to operate and maintain the vehicle(s) listed in the permit application and any supplemental submissions to the Department's GWDS, operated by Denali Water Solutions, for the purpose of collecting, transporting through Delaware and disposing of the non-hazardous liquid wastes 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 (Department).

This permit is issued subject to the following conditions:

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

- a. Activated sludge, to be disposed of at out-of-state permitted facilities;
- b. Water residuals, to be disposed of at out-of-state permitted facilities;
- c. Water and food processing residuals, to be disposed of at the New Castle County Sewer System and out-of-state permitted facilities;
- d. Dissolved Air Flotation (DAF) solids to be land applied at the Stanley Collier Farm, Harrington, DE in accordance with Agricultural Utilization of Waste Permit #AGU 1602-K-05 (and subsequent amendments); the Stanley Collier Farm is associated with the following tax parcels:

- i) 6-00-17600-01-0900;
- ii) 6-00-17600-01-0600;
- iii) 6-00-17600-01-0700;
- iv) 6-00-17600-01-0801; and
- v) 6-00-17600-01-0802.

- e. Wastewater and other non-hazardous liquid waste (non-sanitary wastewater), to be disposed of at Allen Foods Wastewater Treatment Plant (Harbeson);
- f. Cake residuals generated by Perdue Poultry Residuals, to be disposed of out-of-state permitted facilities;
- g. Biosolids and DAF, to be disposed of at the New Castle County Sewer System; out-of-state permitted facilities and Perdue AgriSoil Compost Facility; and
- h. Dissolved Air Flotation (DAF), to be land applied in accordance with Agricultural Utilization of Waste Permit #AGU 1703-K-05 (and subsequent amendments); the Farms are associated with the following tax parcels:

- i) Schreiber Farm (Feedlot 2):
- ii)
 - A. 6-00-15600-01-0800-00001;
 - B. 6-00-15600-01-0600-00001;

- C. 6-00-15600-01-0601-00001;

- ii) Seeney Farm:
 - A. 6-00-15600-01-1600-00001;
 - B. 6-00-16700-01-1400-00001;
- iii) Cain Farm: 8-00-13000-01-7000-00001;
- iv) Masten Farm:
 - A. 8-00-14800-01-2600-00001;
 - B. 8-00-14800-01-0200-00001;
- v) Bergold Farm: 8-00-13900-01-1500-00001;
- vi) Winkler Farm:
 - A. 6-00-16000-01-0800-00001;
 - B. 6-00-16000-01-0200-00001;
 - C. 6-00-14900-01-0701-00001;
- vii) Harrison Farm: 8-00-13600-01-1100-00001;
- viii) Home Farm: 6-00-15600-01-0300-00001; and
- ix) Collison Farm:
 - A. 6-00-15900-01-3300-00001;
 - B. 6-00-15900-01-3800-00001;
 - C. 6-00-15900-01-3201-00001;
 - D. 6-00-14800-01-4400-00001.

2. Permittee shall maintain a current copy of their permit/authorization documentation for each facility listed in Condition 1 on file with the Department's Groundwater Discharges Section (GWDS).
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 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's Groundwater Discharges Section (GWDS).
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's GWDS.

12. Any spill greater than 25 gallons shall be reported to the Department's GWDS 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% 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% 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% 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% 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, portable toilets or any other individual residential on-site wastewater treatment and disposal system shall maintain a Class F Liquid Waste Hauler License (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 wastewater treatment and disposal systems according to the State of Delaware Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems, amended January 11, 2014.
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 System Contractor who must first obtain a Repair Permit from the Department's GWDS.
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's GWDS 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's GWDS in writing within 30 days.
18. Class F Licensees 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's GWDS 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's GWDS in writing within 30 days.
19. If the permittee is transporting Septage, Holding Tank Waste, or Municipal and/or Industrial Biosolids & Sludge from Package Treatment Plants, the permittee shall maintain a bond, or other security in a form approved by the Department's GWDS, in the amount of Five Thousand Dollars (\$5,000) on file with the Department's GWDS. The bond shall be payable to the State of Delaware 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 Waste and Hazardous Substances (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 complete renewal application must be submitted to the Department's GWDS at least 45 days prior to the expiration of this permit to ensure renewal prior to expiration.
25. Pursuant to House Bill No. 360, June 25, 1991, Permittees are required to pay an annual permit fee of Four Hundred Fifty Dollars (\$450.00), payable to the State of Delaware. An annual fee invoice will be mailed to each permittee, to the address on file. This fee is due October 1st of each calendar year. Non-payment of the annual fee shall result in revocation of this Permit.
26. All persons who will be responsible for the removal of the solid and liquid contents of septic tanks shall ensure that the required quarterly reports documenting the location, 911 mailing address and amount of septage removed (in total gallons) from each septic tank pumped out in Delaware are furnished to the GWDS.
27. Waste materials which are transported to a landfill, recycling center, composting facility, or a Delaware Solid Waste Authority (DSWA) facility must obtain a Solid Waste transporter permit from the Division of Waste and Hazardous Substances. A Non-Hazardous Liquid Waste Transporter Permit does not relieve a transporter from having to obtain a Solid Waste transporter permit in those circumstances.

Signed,

Katharyn Potter, MES
Environmental Engineer
Groundwater Discharges Section
Division of Water
Department of Natural Resources and Environmental Control