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	:	SUPERIOR COURT OF NEW JERSEY
NEW JERSEY, DEPARTMENT OF	:	LAW DIVISION -
ENVIRONMENTAL PROTECTION,	:	HUDSON COUNTY
and SHAWN LATOURETTE,	:	DOCKET NO. HUD-L-001886-21
COMMISSIONER OF DEPARTMENT	:	
OF ENVIRONMENTAL PROTECTION,	:	<u>CIVIL ACTION</u>
Plaintiffs,	:	
v.	:	NOTICE OF MOTION
WILENTA FEED, INC.; "XYZ	:	
CORPORATIONS" 1-10; and	:	
"JOHN AND/OR JANE DOES" 1-	:	
10,	:	
Defendants.	:	
	:	

CLERK OF THE COURT
Superior Court of New Jersey
Hudson County Courthouse
583 Newark Avenue
Jersey City, New Jersey 07306

Wilenta Feed, Inc.
46 Henry Street
Secaucus, NJ 07094

PLEASE TAKE NOTICE that at 9:00 a.m. on Friday, May 24, 2024 or as soon thereafter as counsel may be heard, the undersigned Matthew J. Platkin, Acting Attorney General of New Jersey (James M. LaBianca, Deputy Attorney General, appearing) will apply to the Superior Court of New Jersey, Law Division-Hudson County, for an Order granting its Motion in Aid of Litigants' Rights;

PLEASE TAKE FURTHER NOTICE that the undersigned will rely upon the attached Brief and Certifications of the within motion;

PLEASE TAKE FURTHER NOTICE that, pursuant to R. 1:6-2, it is requested that the Court consider this motion on the papers submitted unless opposition is entered, in which case oral argument is requested.

brief and certification submitted in support herein, and opposition, if any; and for good cause shown;

IT IS ON THIS _____ day of _____, 2024;

ORDERED that the Motion to Enforce Litigant's Rights filed by Plaintiffs is hereby **GRANTED** for the reasons placed on the record on _____, 2024; and it is further

ORDERED that Defendants shall immediately take the following actions:

- 1.** Fully comply with all terms and conditions of the November 29, 2022 Judicial Consent Order (JCO), including proper storage of all food waste on the Site; immediately halting the pumping of food waste into the storm drain; and draining the stormwater basis on a monthly basis;
- 2.** Pay to the Department all outstanding civil penalties identified in the November 29, 2022 JCO;
- 3.** Pay the Department monetary sanctions for Defendant's willful violation of the November 29, 2022 Consent Judgment and violations of the Department's permits;
- 4.** Provide an updated Stormwater Pollution Prevention Plan, which specifically confirms that all incoming and outgoing source materials will be stored indoors and will not be stored or deposited

in any manner that will expose those materials to stormwater; and

5. Dredge and clean up any accrued residue or waste material located in the sediment basin at the Site for proper disposal upon entry of this Order.

IT IS FURTHER ORDERED that a true and correct copy of this order shall be served on all counsel of record within _____ days of this date.

Hon. _____, J.S.C.

PRELIMINARY STATEMENT

In 2021, Plaintiff, New Jersey Department of Environmental Protection ("DEP" or "Department"), sued Defendant, Wilenta Feed, Inc. ("Wilenta"), a manufacturer of animal feed products, for violating the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -73 ("WPCA"). Wilenta was illegally storing food waste used in its manufacturing process outdoors in a manner that exposed it to stormwater runoff in violation of its operating permit and the WPCA. To resolve the lawsuit, Wilenta agreed to pay penalties and conduct its business in accordance with its permit and the WPCA. Wilenta also agreed to abide by a 2022 Judicial Consent Order ("JCO") requiring it to ensure that all incoming and outgoing food waste was stored indoors, and not stored or deposited in any manner that would expose those materials to stormwater.

After the JCO was executed, the Department observed violations of the JCO at the processing site, including piles of food waste exposed to stormwater and improper drainage of stormwater to a storm drain and nearby tributary of the Hackensack River. To make matters worse, Wilenta failed to pay the agreed-upon penalties under the JCO, and failed to conduct its business in accordance with the WPCA.

Wilenta's conduct resulted in harm to the environment by polluting the stormwater on-site, causing bacteria to enter a nearby creek. Specifically, food waste in the waterway is

decomposed by organisms that use and deplete the water's dissolved oxygen ("DO"). As the DO is depleted in the water, it ceases to be available for the other aquatic organisms in the water that need oxygen. In addition, fats, oils, and grease from the solid waste float on the water and interfere with the water/atmosphere interface, further reducing oxygen.

As a result, Wilenta is in violation of the JCO and continues to violate its permit and applicable law. Wilenta's conduct places an environmental burden on the residents of Secaucus, an overburdened community under New Jersey's environmental justice law. To address these violations and the consequences of Wilenta's conduct, the Department files this Motion in Aid of Litigants' Rights seeking an order from the Court requiring Wilenta to comply with the JCO and imposing sufficient monetary sanctions for its willful non-compliance to coerce compliance and to offset any economic gains it received from its illegal activity.

STATEMENT OF FACTS

A. Facility Background

Wilenta operates a food waste recycling business at 46 Henry Street in Secaucus ("Site"). Wilenta's operations involve the receipt and storage of food waste, largely bakery products, and the conversion of that food waste into animal feed or animal feed ingredients. Wilenta receives deliveries of bakery by-products (food grade material) from various bakeries to its indoor delivery

area and recycles the material, which it then sells to animal feed companies.

Wilenta's business is located in an overburdened community within the meaning of New Jersey's Environmental Justice Law. N.J.S.A. 13:1D-158 to -161. Specifically, the community that surrounds the Site has a significant minority population such that it is considered an "overburdened community" within the meaning of N.J.S.A. 13:1D-158.¹ Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, soil, and noise pollution, with accompanying increased negative public health impacts. Residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health, without regard to race, language, or income. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018); Environmental Justice Law, N.J.S.A. § 13:1D-157 to -161.

¹ "Overburdened community" means any census block group, as determined in accordance with the most recent United States Census, in which "(1) at least 35 percent of the households qualify as low-income households; (2) at least 40 percent of the residents identify as minority or as members of a State-recognized tribal community; or (3) at least 40 percent of the households have limited English proficiency." N.J.S.A. § 13:1D-158. The Site is located immediately across the street from an area of Voorhees Township that is listed as an overburdened community on the Department's website, pursuant to N.J.S.A. § 13:1D-159.

B. DEP Permits/Inspections/Notices of Violation ("NOVs")

In 2013, the Department issued Wilenta a New Jersey Pollutant Discharge Elimination System ("NJPDES") permit, NJPDES Basic Industrial Stormwater General Permit, designated as NJG0140325 and issued under N.J.S.A. 58:10A-6(a) and N.J.A.C. 7:14A-2.1. The NJPDES permit prohibited Wilenta from exposing solid waste and by-products that it receives and stores, and Wilenta's industrial activities generally, to the outside weather in a manner that would lead to stormwater discharges. (Exhibit 1-2013 Permit). The NJPDES Permit specifically stated that "[e]very facility authorized under this permit shall eliminate the exposure of source materials and/or industrial activity to stormwater discharges" through application of a Stormwater Pollution Prevention Plan ("SPPP").

Despite this prohibition, and as the Department observed and documented on numerous occasions, Wilenta engaged in improper storage practices, including the storing of materials in open-air piles and unsealed containers exposed to stormwater, causing pollutants to run off into the nearby storm sewer system and, ultimately, to New Jersey's surface waters, including Penhorn Creek, a tributary to the Hackensack River.

Specifically, on or around June 19, 2017, DEP received a report of trash and debris covering the driveway at the Site, running off into the public street. On or around June 20, 2017,

a Hudson Regional Health Commission ("HRHC") representative investigated the Site and discovered that large amounts of food waste material were being stored in the Site's asphalt parking lot with no cover. (Certification of Juan Nunez dated April 9, 2024, ¶ 5). The HRHC representative observed the facility's stormwater basin contained fluid that was pinkish in color and filled to capacity. (Nunez Cert. ¶ 5). This stormwater basin is also referred to as a Stormwater Detention Pond, and during rain events causes an unauthorized discharge to the municipal storm sewer system, and ultimately to Penhorn Creek. (Certification of Maria Coppola, dated April 19, 2024, ¶ 29)

On or around June 21, 2017, DEP conducted an inspection of the Site. (Coppola Cert. ¶ 12). The DEP inspector observed the piles of food waste stored uncovered in Wilenta's parking lot. (Coppola Cert. ¶ 12). The DEP inspector also observed the red liquid running from the food waste into a storm drain at the Site. (Coppola Cert. ¶ 12). The discharge of red liquid was an unauthorized discharge of a pollutant into the waters of the State via the facility's stormwater basin in violation of the WPCA's regulations, including N.J.A.C. 7:14A-2.1(d). (Coppola Cert. ¶ 12). As a result of the inspection, the Department issued a NOV to Wilenta. (Coppola Cert. ¶ 13).

On or around June 22, 23, and 26 and July 6, 2017, DEP conducted follow-up inspections at the Site. (Coppola Cert. ¶

14). Each of these inspections revealed that piles of food waste and sawdust continued to be stored uncovered in the parking area at the Site. (Coppola Cert. ¶ 14). DEP also observed that the red liquid continued to run from the source material into the stormwater basin at the Site. (Coppola Cert. ¶ 14). On or around July 6, 2017, a DEP inspector also observed a yellow-gray material in the storm drain at the Site, as well as in the stormwater basin. (Coppola Cert. ¶ 15). The discharge of yellow-gray material was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the WPCA's regulations. N.J.A.C 7:14A-2.1(d).

On or around July 6, 2017, DEP issued a second NOV to Wilenta for the violations observed during the prior inspections. (Coppola Cert. ¶ 16). As of August 2017, Wilenta had not remedied the violations.

On or around August 25, 2017, DEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") to Wilenta. (Coppola Cert. ¶ 17). The AONOCAPA cited multiple violations, including the repeated and continued exposure of food waste materials to stormwater and the discharge of red liquid material through the storm drain and stormwater basin; ordered Wilenta to comply with the WPCA and its NJPDES Permit; and assessed a \$90,000 civil administrative penalty. (Coppola Cert. ¶ 17).

On or around September 12, 2017, DEP conducted another inspection of the Site. (Coppola Cert. ¶ 18). The DEP inspector again observed food waste (source material) stored uncovered in the Site parking area. (Coppola Cert. ¶ 18). DEP issued a third NOV on or around September 12, 2017 for the violations observed during its inspection on that day. (Coppola Cert. ¶ 19).

On or around June 21, 2019, the Department conducted another compliance evaluation at the Site. (Coppola Cert. ¶ 20). The DEP inspector observed several continued violations of the WPCA and NJPDES Permit, including failure to eliminate the exposure of food waste materials to stormwater. (Coppola Cert. ¶ 20). DEP then issued a fourth NOV on July 1, 2019 for the violations observed on June 21, 2019. (Coppola Cert. ¶ 20).

On or around November 8, 2019, DEP conducted yet another compliance evaluation at the Site. (Coppola Cert. ¶ 21). The DEP inspector observed that Wilenta was still storing food waste material in uncovered piles; that Wilenta had failed to remove food waste material from its retention pond; and that a brown fluid ran through the storm drain that discharges into Penhorn Creek. (Coppola Cert. ¶ 21). On or around November 8, 2019, DEP issued a fifth NOV for the observed violations on that day. (Coppola Cert. ¶ 21).

On or around April 21, 2020, the DEP inspector again observed uncovered food waste scattered in the parking areas at the Site.

(Coppola Cert. ¶ 22). The inspector also observed that Wilenta had not cleaned the stormwater basin, which had collected discharged material for at least two years. (Coppola Cert. ¶ 22)

On or around June 12, 2020, DEP conducted another compliance evaluation at the Site. (Coppola Cert. ¶ 23). The DEP inspector observed food waste material stored uncovered and a yellowish liquid running off into the storm drain. (Coppola Cert. ¶ 23). On July 14, 2020, DEP issued a sixth NOV for the violations observed on June 12, 2020. (Coppola Cert. ¶ 23).

On August 24, 2020, DEP conducted another compliance evaluation at the Site. (Coppola Cert. ¶ 24). The DEP inspector observed a breach along the bottom of the wall of a building used to store feed, through which food waste leachate seeped out and ultimately discharged into the storm drain. (Coppola Cert. ¶ 24). On October 8, 2020, DEP issued a seventh NOV for the violations observed on August 24, 2020. (Coppola Cert. ¶ 24).

On February 8, 2021, DEP conducted another compliance evaluation at the Site. (Coppola Cert. ¶ 25). The DEP inspector observed a grayish-brown frozen material present in and around the storm drain in the middle of the property; a container with food material discharging liquid onto the ground; and the continued presence of food-waste material in the stormwater basin. (Coppola Cert. ¶ 25). On February 22, 2021, DEP issued an eighth NOV for the violations observed on February 8, 2021. (Coppola Cert. ¶ 25).

C. Superior Court Action/Issuance of JCO

In response to the observed WPCA and NJPDES Permit violations, on May 7, 2021, the Department filed a complaint in the New Jersey Superior Court seeking to compel Wilenta to comply with the permit. In the complaint, the Department sought to: (1) compel the company to cease pollution caused by the exposure of food wastes to stormwater at the Site; (2) recover the costs the Department had incurred and will incur to remove, correct, and/or terminate any adverse effects on surface water quality resulting from the unauthorized discharges; and (3) impose civil statutory penalties.

On July 5, 2022, the Department filed an amended complaint and sought injunctive relief against Wilenta to stop the continued violations on the Site. (Coppola Cert. ¶ 26). Specifically, the Department sought to compel Wilenta to abate its discharge of water pollutants on Site and take other corrective actions to properly store its food waste. (Coppola Cert. ¶ 26).

On November 29, 2022, in an effort to resolve the Department's claims, the parties agreed to and the court executed the JCO. (Coppola Cert. ¶ 27). The JCO obligated Wilenta to: (1) provide an updated SPPP, which specifically required Wilenta to ensure that all incoming and outgoing source materials will be stored indoors and will not be stored or deposited in any manner that will expose those materials to stormwater; (2) dredge and clean up any accrued residue or waste material located in the sediment basin

at the Site for proper disposal within 30 days of the effective date of the JCO; and (3) pay a civil penalty in the amount of \$140,000 in sixteen quarterly installments. (Coppola Cert. ¶ 27).

The JCO further provided that in the event "Defendant fails to pay the above penalty or take the required compliance actions in accordance with the terms and conditions of this JCO, then Plaintiffs may take additional enforcement actions as it deems appropriate." (Exhibit 1, ¶ 19).

D. Post JCO Actions

Three months after the JCO was executed, on February 1, 2023, the Department issued a General Stormwater Permit NO. NJG0140325, which required Wilenta to dredge and clean out the stormwater basin on the Site and prevent the discharge of food waste materials offsite. (Coppola Cert. ¶ 28). On June 2, 2023, the Department conducted an on-site inspection that indicated the observed violations still existed, but that Wilenta was working toward compliance by removing the liquid source materials from the on-site stormwater detention pond. Shortly thereafter, the HRHC received a complaint about odors emanating from the Site. (Nunez Cert. ¶ 3). The HRHC had previously been called to the Site over 10 times since 2017 in response to complaints about odors and food waste storage. (Nunez Cert. ¶ 3). The HRHC eventually notified the Department, and the HRHC and the Department conducted a joint Site inspection on October 6, 2023. (Nunez Cert. ¶ 4).

During the October 6 joint inspection, the Department observed large stockpiles of food waste placed near the storm drain, as well as a pump that was discharging food waste into the storm drain. (Coppola Cert. ¶ 30-31; Nunez Cert. ¶ 4). As a result of the inspection, the Department issued a ninth NOV to Wilenta, which documented that Wilenta had: (1) failed to store source materials properly; (2) failed to dredge and clean up the stormwater sedimentation basin; (3) discharged food waste material from a stormwater detention pond via pump to a storm drain connected to Penhorn Creek; and (4) failed to make penalty payments under the JCO. (Coppola Cert. ¶ 31).

The JCO specifically prohibited Wilenta from depositing source materials "in any manner that will expose those materials to stormwater." (Exhibit 1, ¶ 17(a)(6)). On October 23, 2023, the Department notified Wilenta in writing that, as a result of the Department's recent inspections, Wilenta was in violation of the Department's permits and the JCO. The Department further advised Wilenta that it had failed to honor both its monetary and remedial obligations under the JCO. Wilenta responded that it was unable to take the required measures under the JCO and applicable permits due to a recent rain storm, and sought to claim Force Majeure under Paragraph 24 of the JCO in defense. However, Wilenta's attempt to invoke the Force Majeure provision under the

JCO was not timely because it was made well after the required 7 days. (Coppola Cert. ¶33)

On April 4, 2024, the Department conducted yet another Site inspection. During this inspection, the Department again observed a pump in the stormwater detention basin with a hose pumping waste into the storm drain. (Coppola Cert, ¶ 34). The Department also found food waste material stored outside of the storage garage. (Coppola Cert. ¶ 34). As a result of the April 4, 2024 inspection, the Department issued a tenth NOV to Wilenta recommending it provide a list of corrective actions to the Department within five days. (Coppola Cert. ¶ 35). After the April 4 inspection and issuance of the NOV, Wilenta advised that they had taken some corrective action. (Coppola Cert. ¶ 35).

Wilenta's ongoing failure to comply with the JCO continues to threaten the health and safety of the City of Secaucus. The food waste and other materials continue to pollute the stormwater basin and create an environmental harm to the nearby community. More specifically, the food waste deposited in the waterway as a result of Wilenta's actions is decomposed by organisms that use and deplete the water's dissolved oxygen ("DO") concentration. As the DO is depleted in the water, it ceases to be available for the other aquatic organisms in the water that require DO. In addition, fats, oils and grease from the solid waste float on the water and

interfere with the water/atmosphere interface, negatively effecting DO concentration.

As a result of Wilenta's persistent non-compliance, the Department is compelled to seek relief through this Motion in Aid of Litigant's Rights. The Department seeks an order requiring Wilenta to: (1) fully comply with all terms and conditions of the November 29, 2022 JCO, including proper storage of all food waste on the Site; immediately halting the pumping of food waste into the storm drain; and draining the stormwater basis on a monthly basis; (2) pay to the Department all outstanding civil penalties identified in the November 29, 2022 JCO; and (3) pay the Department monetary sanctions for its willful violation of the November 29, 2022 Consent Judgment and violations of the Department's permits.

ARGUMENT

THE COURT SHOULD GRANT THE DEPARTMENT'S REQUEST FOR AN ORDER ENFORCING LITIGANT'S RIGHTS AND AWARD MONETARY SANCTIONS IN ITS DISCRETION.

Rule 1:10-3 permits a litigant to seek a court's assistance to vindicate the litigant's rights. The "power of the court to enforce [its] order" is undisputed. Bd. Of Educ. Twp. Of Middletown v. Middletown Twp. Educ. Ass'n., 352 N.J. Super. 501, 508 (Ch. Div. 2001). "The Court Rules overall evince an intent toward flexibility when the enforcement of rights is at stake. They provide various means for securing relief and allow for

judicial discretion in fashioning relief to litigants when a party does not comply with a judgement or order.” In re Adoption of N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 17-18 (2013) (“In re Adoption”).

Here, the Court should enforce the November 29, 2022 JCO, including its requirement to pay the assessed penalty; and impose monetary sanctions sufficient to compel compliance and offset any economic gain Wilenta received through its illegal actions because Wilenta willfully failed to comply with the JCO, the WPCA, and its permits.

A. Wilenta’s Failure to Comply With the Terms of the JCO Requires Entry of An Order Enforcing the Department’s Rights Under Rule 1:10-3.

When the relief sought is the enforcement of an order, there is no “willfulness” requirement under Rule 1:10-3. Ibid.; see also N.J. Dep’t of Health v. Roselle, 34 N.J. 331, 347 (1961); Lusardi v. Curtis Point Prop. Owners Ass’n, 138 N.J. Super. 44, 49 (App. Div. 1975). The party seeking such relief need not make any showing regarding the violator’s state of mind, as the Supreme Court has held that a “willful disobedience and lack of concern for the order of the court [] is necessary for a finding of contempt, but irrelevant in a proceeding designed simply to enforce a judgment on a litigant’s behalf.” In re Adoption, 221 N.J. at 17 (emphasis in original).

Here, Wilenta has failed to comply with the JCO in multiple respects. The JCO specifically required Wilenta to protect source materials from exposure to stormwater and to drain out the stormwater basin on a monthly basis. (Exhibit 5 - Para. 17(3)(6)). Despite Wilenta agreeing to these terms, on October 6, 2023, the Department observed piles of food waste being stored outside and exposed to stormwater, and a pump in the stormwater detention basin for the purpose of pumping waste into the storm drain. (Coppola Cert. ¶¶ 31-35). The JCO also specifically required payment of penalties from Wilenta to the Department in quarterly installments in the amount of \$8,750.00 from January 15, 2023 to July 15, 2025. To date, Wilenta has made some payments, but has failed to fully pay all installments owed under the JCO. (Coppola Cert. ¶ 27).

For these reasons, because DEP correctly concluded that Wilenta had violated the JCO, its permits, and the applicable law by: (1) failing to store source materials properly; (2) failing to dredge and clean up the stormwater sedimentation basin; (3) discharging food waste material from the stormwater detention basin via pump to the storm drain connected to Penhorn Creek; and (4) failing to make penalty payments, the Court should enter an Order enforcing the Department's rights under the JCO.

B. Monetary Sanctions Are Appropriate Because Wilenta's Failure to Abide By the Terms of the JCO Was Willful Under Rule 1:10-3.

Wilenta's failure to comply with the JCO alone merits entry of an Order enforcing the Department's rights under Rule 1:10-3. Because the Department has also shown that Wilenta's actions were willful, monetary sanctions are appropriate.

To award sanctions or other coercive relief on a motion in aid of litigant's rights pursuant to Rule 1:10-3, a court must find "that the defendant has the ability to comply with the order which he has violated" but willfully refused to do so. Essex County Welfare Bd. v. Perkins, 133 N.J. Super. 189, 195 (App. Div. 1975); see also Schochet v. Schochet, 435 N.J. Super. 542, 548-49 (App. Div. 2014). For example, in Milne v. Goldenberg, the court found that a party was "willful" in failing to pay a court ordered tax liability where she had the ability to pay but chose to "prioritize" her funds to other purposes. 428 N.J. Super. 184, 199 (App. Div. 2012). There, the Appellate Division observed that "there is a need to maintain the 'integrity and enforceability' of the court's orders, otherwise they become suggestions or recommendations." Ibid.; see also Marshall v. Matthei, 327 N.J. Super. 512, 518, 528-29 (App. Div. 2000) (finding that a debtor willfully failed to pay court-ordered legal fees, alimony, and child support where he allocated money to other purposes, even where he transferred it entirely out of his possession).

Wilenta's conduct easily vaults this threshold. First, there can be no debate that Wilenta was actually aware of its obligations. Wilenta's counsel negotiated and filed the JCO on its behalf and, as such, had actual notice of the Order's requirements. Bituminous Concrete Co. v. Manzo, 70 N.J. Super. 102, 104 (App. Div. 1961). Notwithstanding Wilenta's actual knowledge of the JCO's requirements, the Department and County inspections on June 2, 2023, October 6, 2023 and April 4, 2024 confirm that Wilenta failed to comply with its obligations. (Certifications of Maria Coppola and Juan Nunez).

Second, Wilenta's egregious refusal to comply with an Order of the Court is but one example of Wilenta's ongoing pattern of actively ignoring the Department's and the court's efforts to compel it to comply with the law. In response to the Department's ongoing efforts to make Wilenta comply and honor its obligations under the JCO, which include the issuance of ten NOVs and an AONOCAPA, Wilenta has remained steadfast in its continuing conduct of stockpiling food waste, improper. (Nunez Cert. ¶¶ 4-5, Coppola Cert. ¶¶6-34). Worse still, the photographic evidence of the food waste stored on the Site illustrates the severity of these violations and makes Wilenta's violations of law and the JCO indefensible. (Nunez Cert. ¶¶ 4-5, Coppola Cert. ¶¶6-34). Wilenta's utter disregard for New Jersey law and the Department's

authority, as well as the rights of the Secaucus residents, leave the Department with no choice but to make this application.

Third, Wilenta's refusal to honor its monetary obligations under the JCO can be considered nothing except voluntary and willful, particularly given its own unjust enrichment at the expense of Secaucus' environmental condition and the health and environmental justice rights of its residents. (Coppola Cert. ¶31). To the residents of the overburdened community of Secaucus, the food waste that Wilenta processes at the Site is garbage. But to Wilenta, it is money. Wilenta is paid to take this food waste, but is also bound to comply with the law. To that end, a lack of legally sufficient storage capacity does not give Wilenta license to violate its NJPDES permit, the environmental laws, or the environmental rights of Secaucus residents. Yet Wilenta continues to engage in unlawful environmental practices in pursuit of additional profit, without regard for the safety and welfare of the surrounding community. Under these circumstances, Wilenta's conduct is particularly egregious and merits monetary sanctions.

For all of these reasons, the Court should order monetary sanctions and other appropriate relief against Wilenta for its willful violation of the JCO, and to prevent Wilenta from attempting to escape responsibility for remedying the harms it has created. These sanctions should be ordered in an amount appropriate to coerce compliance with the Court's order. "While

a monetary sanction payable to the aggrieved party is not necessarily limited to the amount of the aggrieved party's actual damage, it must nevertheless be rationally related to the desideratum of imposing a 'sting' on the offending party within its reasonable economic means." Pressler and Verniero, Rules of Court, Comment 4.4.3 to Rule 1:10-3.

To guide the Court on an appropriate range for sanctions, it is appropriate to look to the penalty provisions of the WPCA. The WPCA's penalty provisions allow for imposing additional penalties "for violations of the WPCA, an administrative order and a court order, even though those violations are predicated on the same conduct. *State v. Standard Tank*, 284 N.J. Super. 381, 409 (App. Div. 1995); N.J.S.A. 58:10A-10(e). In fact, the WPCA specifically states that "[a] violation of a court or administrative order constitutes a more aggravated form of wrongdoing than a simple violation of a permit and also requires vindication of the authority of the court and agency that issued the order." N.J.S.A. 58:10A-10(e). Environmental compliance is paramount, and Wilenta's refusal to engage with the Department to fully comply with the JCO justifies this request for coercive relief. Daily sanctions should be issued for each day of non-compliance identified by DEP since entry of the JCO, and until Wilenta fully complies with the JCO by taking all required remedial measures and paying the Department for all outstanding penalty amounts owed.

Lastly, any sanction imposed should also be sufficient to offset any economic benefit Wilenta received by illegally storing food waste outside in violation of the JCO, its permits, and the applicable law. To properly calculate the amount of this benefit, the Court should order Wilenta to provide documentation sufficient to identify the amount of food waste material it stored outside on the days of violation, and the amount of money it received for accepting that food waste illegally, and Wilenta should be ordered to submit this documentation for each day on which DEP observed these violations.

CONCLUSION

For all of these reasons, the Court should enter an Order requiring Wilenta to immediately comply with the JCO, including paying the assessed penalty, and issue appropriate sanctions against Wilenta to coerce compliance and offset any economic benefit it received through its illegal acts.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Defendants

By: s/James M. LaBianca
JAMES M. LABIANCA
Deputy Attorney General

Dated: April 24, 2024

MATTHEW J. PLATKIN
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NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, and SHAWN LATOURETTE, COMMISSIONER OF DEPARTMENT OF ENVIRONMENTAL PROTECTION,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - HUDSON COUNTY DOCKET NO. HUD-L-001886-21
Plaintiffs,	:	<u>CIVIL ACTION</u>
v.	:	Proof of Service
WILENTA FEED, INC.; "XYZ CORPORATIONS" 1-10; and "JOHN AND/OR JANE DOES" 1-10,	:	
Defendants.	:	
	:	

CERTIFICATION

I hereby certify that the original and one copy of the within notice of motion in aid of litigant's rights, accompanying brief, certifications, and supporting documents were filed with the Superior Court of New Jersey, Hudson County and on eCourts. I further certify that I caused copies of the notice of motion and all supporting papers to be served upon the following in accordance with R. 1:5-6(b):

Wilenta Feed, Inc.
46 Henry Street
Secaucus, NJ 07094

Sincerely,

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY

s/ Mark A Fisher

Mark A. Fisher

Deputy Attorney General

Attorney ID No.: 043302006

Environmental Protection.

2. I received a Bachelor of Science in Environmental Studies.
3. My job responsibilities include enforcement of various statutes and regulations overseen by the Division, including the Water Pollution Control Act.
4. I submit this certification in support of Department's motion in aid of litigant's rights.
5. After reviewing the brief in support of the Department's motion, I certify that the factual allegations in the brief are true and correct to the best of my knowledge based on my own experience and observations, and after reviewing Department records related to this case.
6. The subjection location is 46 Henry Street in Secaucus, NJ. ("Site") The Site receives bakery by-products (food grade material/source material) from various bakeries and resells the materials to animal feed companies.
7. All storm drains on the Site discharge to a trough at the foot of the driveway to an unlined stormwater detention basin. At the end of the detention basin, the stormwater flows into two subsurface baffled tanks where solids settle and are pumped out. The stormwater discharges via pipe to a catch basin to the Secaucus stormwater detention system, and ultimately to Penhorn Creek. (Exhibit 1-Inspection Report dated June 21, 2019)

8. Based on my own investigation and inspections at the property located at the Site, I have observed large stockpiles of food waste, identified as "source materials" by the Department's NJPDES Permit a New Jersey Pollutant Discharge Elimination System ("NJPDES") permit, NJPDES Basic Industrial Stormwater General Permit, designated as NJG0140325 and issued under N.J.S.A. 58:10A-6(a); N.J.A.C. 7:14A-2.1. (Exhibit 2- NJPDES Basic Industrial Stormwater General Permit dated February 1, 2013)
9. During my inspections I also observed the presence of a pump located inside the stormwater basin which appeared to be used to discharge food waste into the storm drain. (Exhibit 3- October 6, 2023 Inspection Report and April 4, 2024 Inspection Report)
10. The NJPDES permit prohibited Wilenta from exposing food waste and by-products that it receives and stores, and Wilenta's industrial activities generally, to the outside weather in a manner that would lead to stormwater discharges. (Exhibit 2- 2013 Permit). The NJPDES Permit specifically stated that "[e]very facility authorized under this permit shall eliminate the exposure of source materials and/or industrial activity to stormwater discharges" through application of a Stormwater Pollution Prevention Plan ("SPPP"). (Exhibit 1)

11. Despite this prohibition, I observed and documented numerous occasions of Wilenta's improper storage practices, including the storing of materials in open-air piles and unsealed containers exposed to stormwater, causing pollutants to run off into the nearby storm sewer system and, ultimately, to New Jersey's surface waters including Penhorn Creek, a tributary to the Hackensack River. (Exhibit 3-Inspection Reports dated October 6, 2023 and April 4, 2024 Inspection Report)
12. Specifically, on or around June 19, 2017, DEP received a report of trash and debris covering the driveway at the Site, running off into the public street.
13. On or around June 20, 2017, a Hudson Regional Health Commission ("HRHC") representative investigated the Site and discovered that large amounts of food waste material were being stored in the Site's asphalt parking lot with no cover. (Certification of Juan Nunez, ¶ 4)
14. On or around June 21, 2017, DEP conducted an inspection of the Site. I observed the piles of food waste stored uncovered in Wilenta's parking lot. I also observed the red liquid running from the food waste into a storm drain at the Site. The discharge of red liquid was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the WPCA's regulations,

including, N.J.A.C. 7:14A-2.1(d). As a result of the inspection the Department issued a Notice of Violation ("NOV") to Wilenta. (Exhibit 4-Inspection Report and NOV dated June 21, 2017)

15. On or around June 22, 23, and 26 and July 6, 2017, DEP conducted follow-up inspections at the Site. Each of these inspections revealed that piles of food waste and sawdust continued to be stored uncovered in the parking area at the Site. I also observed that the red liquid continued to run from the source material into a stormwater basin at the Site.

16. On or around July 6, 2017, I observed a yellow-gray material in the storm drain at the Site, as well as in the stormwater basin. The discharge of yellow-gray material was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the WPCA's regulations. N.J.A.C 7:14A-2.1(d).

17. On or around July 6, 2017, DEP issued a second NOV to Wilenta for the violations observed during the prior inspections. By August 2017, Wilenta had not remedied the violations. (Exhibit 5-Notice of Violation dated July 6, 2017)

18. On or around August 25, 2017, DEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") to Wilenta. The AONOCAPA

cited multiple violations, including the repeated and continued exposure of food waste materials to stormwater and the discharge of red liquid material through the storm drain and stormwater basin, ordered Wilenta to comply with the WPCA and its NJPDES Permit, and assessed a \$90,000 civil administrative penalty. (Exhibit 6-AONOCAPA dated August 25, 2017)

19. On or around September 12, 2017, DEP conducted another inspection of the Site. I again observed food waste (source material) stored uncovered in the Site parking area. As a result of the inspection, DEP issued a third NOV. (Exhibit 7-Notice of Violation dated September 12, 2017)

20. On or around June 21, 2019, the Department conducted another compliance evaluation at the Site. I observed several violations of the WPCA and NJPDES Permit, including failure to eliminate the exposure of food waste materials to stormwater. DEP then issued another NOV on July 1, 2019, for the violations observed on June 21, 2019. (Exhibit 8-Notice of Violation dated July 1, 2019)

21. On or around November 8, 2019, DEP conducted yet another compliance evaluation at the Site. I observed that Wilenta was still storing food waste material in uncovered piles, that Wilenta had failed to remove food waste material from its retention pond, and that a brown fluid ran through the

stormwater trough that discharges into Penhorn Creek. As a result of the inspection, DEP issued a fourth NOV for the observed violations on that day. (Exhibit 9-Notice of Violation dated November 8, 2019)

22. On or around April 21, 2020, I again observed uncovered food waste scattered in the parking areas at the Site. I also observed that Wilenta had not cleaned the stormwater retention pond, which had collected discharged material for an extended period of time.

23. On or around June 12, 2020, DEP conducted another compliance evaluation at the Site. I observed food waste material stored uncovered and a yellowish liquid running off into a storm drain. On July 14, 2020, DEP issued a fifth NOV for the violations observed on June 12, 2020. (Exhibit 10-Notice of Violation dated July 14, 2020)

24. On August 24, 2020, DEP conducted another compliance evaluation at the Site. I observed a breach along the bottom of the wall of a building used to store feed, through which food waste leachate seeped out and ultimately discharged into a storm drain. On October 8, 2020, DEP issued a seventh NOV for the violations observed on August 24, 2020. (exhibit 11-Notice of Violation dated October 8, 2020)

25. On February 8, 2021, DEP conducted another compliance evaluation at the Site. I observed a grayish-brown frozen

material present in and around the stormwater drain in the middle of the property, a container with food material discharging liquid onto the ground, and the continued presence of food-waste material in the stormwater retention pond. On February 22, 2021, DEP issued an eighth NOV for the violations observed on February 8, 2021. (Exhibit 12-Notice of Violation dated February 22, 2021)

26. On May 7, 2021, the Department filed a Complaint in the New Jersey Superior Court seeking to compel Wilenta to comply with the permit. In the Complaint, the Department sought to: (1) compel the company to cease the pollution caused by exposure of food wastes to stormwater at the Site; (2) to recover the costs the Department had incurred and will incur to remove, correct, and/or terminate any adverse effects on surface water quality resulting from the unauthorized discharges; and (3) to impose civil statutory penalties. (Exhibit 13-Complaint dated May 7, 2021)

27. On July 5, 2022 the Department filed an Amended Complaint and sought injunctive relief against Wilenta to stop the continued violations on the Site. Specifically, the Department sought to compel Wilenta to abate its discharge of water pollutants on Site and take other corrective actions to properly store its food waste. (Exhibit 14-Amended Complaint dated July 5, 2022).

28. On November 29, 2022, the parties executed and filed a Judicial Consent Order ("JCO") resolving the departments claims. (Exhibit 5-JCO). The primary terms and conditions of the JCO obligated Wilenta to:

1. Provide an updated SPPP, which specifically required Wilenta to ensure that all incoming and outgoing source materials will be stored indoors and will not be stored or deposited in any manner that will expose those materials to stormwater;
2. Dredge and clean up any accrued residue or waste material located in the sediment basin at the Site for proper disposal within 30 days of the effective date of the Consent Judgement; and
3. Pay a civil penalty in the amount of \$140,000 in sixteen quarterly installments. (Exhibit 15-Judicial Consent Order dated November 29, 2022).

29. On February 1, 2023 the Department issued a General Stormwater Permit NO. NJG0140325, which required Wilenta to dredge and clean out the stormwater sedimentation basin on Site and prevent the discharge of food waste materials offsite. (Exhibit 16-Stormwater Permit dated February 1, 2023).

30. On June 2, 2023 the Department conducted an on Site inspection wherein it was found that the observed violations

still existed, but that Wilenta was working towards compliance. (Exhibit 17-Compliance Evaluation Report dated 6-2-23).

31. Shortly thereafter, the Hudson Regional Health Commission received a complaint about odors emanating from the Site. The commission eventually notified the Department and a joint Site inspection was conducted on October 6, 2023. (Nunez Cert.¶ 3)

32. During the October 6th inspection the I observed large stockpiles of food waste placed near the storm drain, as well as a pump which appeared to be used to discharge food waste into the storm drain. As a result of the inspection the Department issued a ninth NOV to Wilenta, which documented that Wilenta had:

1. Failed to store source materials properly;
2. Failed to dredge and clean up the stormwater sedimentation basin;
3. Discharged food waste material from a stormwater detention pond via pump to a storm drain connected to Penhorn Creek; and
4. Failed to make penalty payments under the JCO.

(Exhibit 18-Notice of Violation dated October 6, 2023)

33. The JCO specifically prohibited Wilenta from depositing source materials "in any manner that will expose those materials to stormwater." (Exhibit 15, ¶ 17(a)(6)).
34. On October 23, 2023 the Department provided written notification to Wilenta wherein it advised that as a result of the Department's recent inspections, Wilenta was in violation of the Department's permits and the JCO, and further advised Wilenta that it failed to honor both its monetary and remedial obligations under the JCO. (Exhibit 19-Letter from DEP dated October 23, 2023)
35. Wilenta responded that due to a recent rain storm it was unable to take the required measures under the JCO and applicable permits, and sought to claim Force Majeure under the JCO in defense. (Exhibit 20-Letter from Michael Wilenta dated October 11, 2023)
36. However, Wilenta's request was untimely under the JCO as it was received by the Department after the required 7 days. (Exhibit 15, ¶ 24)
37. On April 4, 2024 the Department conducted another Site inspection. During this inspection I observed a pump in the stormwater detention basin with a hose pumping waste into the storm drain. I also observed food waste material stored outside of the storage garage. As a result of the April 4th inspection, the Department issued a tenth NOV to Wilenta

ordering it to provide a list of corrective actions to the Department within five days. (Exhibit 21-Notice of Violation dated April 4, 2024)

38. After the inspection and issuance of the NOV Wilenta advised that they had taken some corrective action. Specifically, Wilenta installed a system that would capture all the stormwater runoff from the facility prior to entering the stormwater pond. In addition, Wilenta advised that they are securing a contract to have all the material pumped out of the stormwater pond. (Exhibit 22-Letter from Michael Wilenta dated April 5, 2024)

39. Regarding the penalties, currently Wilenta has made the following JCO penalty settlement payments:

Paid on 1/5/2023 - \$8,750.00; and

Paid on 4/11/2023 - \$9,488.28

Total = \$18,238.28

CERTIFICATION

I certify that the foregoing statements made by me are true. I further certify that any exhibits attached hereto are true and correct copies. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Maria Coppola

Maria Coppola
Environmental Specialist III
Water Compliance and Enforcement
Northern Region
New Jersey Department of Environmental
Protection

Date: April 25, 2024

Exhibit 1

Compliance Evaluation Summary and Checklist with Included flag

Date Printed: 6/27/2019

Activity: SCI 190001 *Standard Compliance Inspection (130633)
Title Description: SCI.FY19
Start Date/Time: 06/21/2019 10:30 AM **End Date/Time:** 06/21/2019 12:30 PM

Program Interest: WILENTA FEED INC
 130633 (NJPDES)
 46 HENRY ST,
 SECAUCUS TOWN, HUDSON
 COUNTY

Mailing Address: 46 HENRY ST Secaucus NJ 07094

Responsibility Entity(s) **Program Interests included in Inspection:**

Wilenta Feed Inc 130633 (Njpdcs)

Block(s) and Lot(s): No Block and Lot

<u>Lead Investigator</u>	<u>Other Investigators</u>	<u>Persons Interviewed</u>	<u>Witnesses</u>
Coppola, Maria		Michael Wilenta, Wilenta Feed, Incorporated, 201-863-3035	George Casino, Environmental Consultant, 973-882-2950

General Comments

NJPDES General Stormwater Permit Number: NJG0140325, EDP: 02/01/2018, ExpDP: 01/31/2023

REMINDER: Annual Inspection is required between April and June of each calendar year and Annual Recertification submittal thereafter.

Wilenta Feed, Incorporated receives bakery by-products (food-grade material/source material) from various bakeries and resells the materials to animal feed companies.

The garage area where the food-grade material/source material is stored, has permitted floor drains at the entrance of the garage which discharge directly to 2 sediment tanks to oil/water separator, solids settle out and wastewater to Secaucus MUA.

Wilenta has the following stormwater system:

All storm drains on the property discharge to a skirt-trough at the foot of the driveway to an unlined stormwater detention basin. At the end of the detention basin, the stormwater flows into two-subsurface baffled tanks where solids settle and are pumped out. The stormwater discharges via pipe to a catch basin to the Secaucus stormwater collection system, which ultimately to Penhorn Creek.

During the time of the inspection, the above mentioned stormwater detention pond was filled with an odorous material that was gray-greenish in color. This material appears to be decomposed source material that was in contact with stormwater runoff which discharged into the detention pond. This source material present in the stormwater detention pond constitutes a violation of your general stormwater permit which requires "No Exposure" of source material to stormwater.

Roll-off dumpsters along the back perimeter of the facility were observed to be discharging a white-gray liquid that had an odor of decomposing food waste.

Wilenta needs to implement more Best Management Practices to ensure all source material is stored in a manner that prevents exposure to storm water.

Inspection Attribute(s):	Quantity(s)
--------------------------	-------------

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

Number of Attributes: 0

130633 5G2 0 - Basic Industrial Stormwater GP - NJ0088315 (5G2)

Requirement	Status RTC	Results or Comments	Req Source Ref # Req. Type
Cease the unpermitted discharge to surface water, clean-up storm drains, holding pond, and remove source material. Institute necessary BMPs to eliminate source material from coming into contact with stormwater, by 6/22/2017 or 6/23/2017. [N.J.A.C. 7:14A- 2]	ON	Failure to completely eliminate all source material from areas that discharge to the stormwater system during rain events.	PEA 170001 T
Immediately comply with the Water Pollution Control Act and the conditions of the NJPDES 5G2 Permit. [N.J.A.C. 7:14A- 2]	ON	Insitute more Best Management Practices (BMP) to prevent source material from discharging to stormwater during rain events.	PEA 170002 T
Comply with ALL of the no exposure requirements of your NJPDES Permit. [N.J.A.C. 7:14A- 6.2(a)1]	ON		PEA 180001 T
Perform Annual Employee Training in accordance with your NJPDES Permit. [N.J.A.C. 7:14A- 6.2(a)1]	ON	Employee Training records were not available for review.	PEA 180001 T
Comply with the Permit. [N.J.A.C. 7:14A- 6]	ON	Comply with ALL conditions of your Permit.	PEA 190001 T
Did the Permittee eliminate all exposure of source materials to stormwater?. [N.J.A.C. 7:14A- 6.2(a)1]	OC	Failure to eliminate all exposure of source materials to stormwater. Specifically, failure to completely eliminate all source material from areas that discharge to the stormwater system during rain events.	DST 180001 18 T
Did the Permittee prepare a Stormwater Pollution Prevention Plan (SPPP) as required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 30 T
Was the SPPP amended to reflect any operational changes which affect the industrial stormwater discharge?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 34 T
Did the Permittee make the SPPP available or provide a copy upon request to an authorized representative of the Department?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 39 T
Does the SPPP include a detailed description of all source materials used, stored, or otherwise located at the facility and all industrial activities conducted at the facility?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 44 T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

130633 5G2 0 - Basic Industrial Stormwater GP - NJ0088315 (5G2)

Requirement	Status RTC	Results or Comments	Req Source Ref # Req. Type
Does the SPPP include a list of all non-stormwater discharges, as defined by the Permit, to surface or ground water?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 45 T
Does the SPPP include a map of the entire facility containing all features specifically required by the Permit? . [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 49 T
Does the SPPP include a plan that ensures regular, preventative maintenance and appropriate repairs, including replacement, of all structural BMPs identified above and the updating of non-structural BMPs such as Standard Operating Procedures (SOPs)?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Monthly inspection records on-site for review.	DST 180001 59 T
Are monthly maintenance inspections being performed that ensure all BMPs identified in the SPPP are being properly implemented and/or maintained?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes included with SPPP.	DST 180001 61 T
Are problems identified during regular maintenance inspections and the corrective action(s) implemented being recorded?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes, as per comments on monthly inspections.	DST 180001 62 T
Are monthly maintenance inspection records maintained onsite and available for Department inspection?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 63 T
Does the SPPP include or cite the location of any Spill Prevention Control and Countermeasure Plan (SPCC Plan), Discharge Prevention, Containment and Countermeasure Plan (DPCC Plan), and/or Discharge Cleanup and Removal Plan (DCR Plan), if applicable?. [N.J.A.C. 7:14A- 6.2(a)1]	NA		DST 180001 68 T
Is annual employee training being performed and recorded as required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	ON	Failure to perform and/or record annual employee training as required by the Permit.	DST 180001 71 T
Once the SPPP has been implemented, has the Permittee conducted and documented annual self-inspections? . [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 76 T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

130633 5G2 0 - Basic Industrial Stormwater GP - NJ0088315 (5G2)

Requirement	Status RTC	Results or Comments	Req. Source Ref # Req. Type
Did the facility submit certification that the Annual Inspection was conducted each year by the end of the second calendar quarter (April - June)? [N.J.A.C. 7:14A- 6.2(a)1]	ON	Failure to submit the Certification Form that the Annual Inspection was conducted each year during the appropriate calendar quarter. Specifically, Wilenta is required to conduct and submit annual recertification between April and June of each calendar year.	DST 180001 90 S
Does the facility maintain records required by the Permit a minimum of five (5) years?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 180001 197 T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

Exhibit 2



State of New Jersey

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Mail Code - 401-02B
Division of Water Quality -Bureau of Nonpoint Pollution Control
P.O. Box 420 – 401 E. State St.
Trenton, NJ 08625-0420
Tel: (609) 633-7021 / Fax: (609) 777-0432
http://www.state.nj.us/dep/dwq/bnpc_home.htm

BOB MARTIN
Commissioner

January 8, 2013

PETE WILENTA
WILENTA FEED INC
46 HENRY ST
SECAUCUS, NJ 07096-2596

Re: 5G2 -Basic Industrial Stormwater GP - NJ0088315 (5G2)
NJPDES: NJG0140325 PI ID #: 130633
WILENTA FEED INC
Secaucus Town, Hudson

Dear Pete Wilenta:

The final renewal of the Basic Industrial Stormwater General Permit (general permit) identified above has been issued in accordance with N.J.A.C. 7:14A. A complete copy of the general permit, which is effective February 1, 2013 and expires on January 31, 2018, can be viewed on the internet at www.state.nj.us/dep/dwq/ under "Featured Topics".

During the public comment period, comments on the draft action were received from the Delaware Riverkeeper Network. A summary of the significant and relevant comments received and the Department's responses have been included in the Response to Comments document prepared pursuant to N.J.A.C. 7:14A-15.16. No changes from the draft action were made in response to the submitted comments. Pursuant to N.J.A.C. 7:14A-15.15, the Response to Comments document was sent to each person who submitted written comments, along with notice of the Department's decision to issue the final renewal general permit.

If you have questions or comments regarding the Final general permit action, please contact Kerri Standowski at Kerri.Standowski@dep.state.nj.us or (609) 633-7021.

Sincerely,

Brian McLendon, Supervisor
Bureau of Nonpoint Pollution Control
Water Pollution Management Element

Enclosures: (2)

1. Authorization to Discharge
2. 5G2 Certification Form

E-closures: (3)

1. Final NJPDES Basic Industrial Stormwater General Permit No. NJ0088315 at www.state.nj.us/dep/dwq/
2. Basic Industrial Stormwater General Permit Guidance Document at www.state.nj.us/dep/dwq/5g2.htm
3. Basic Industrial Stormwater General Permit Guidance Document – Marina Edition at www.state.nj.us/dep/dwq/5g2.htm

New Jersey Department of Environmental Protection



Bureau of Nonpoint Pollution Control
Division of Water Quality
PO Box 029
Trenton, NJ 08625-0029
Phone: (609) 633-7021
Fax: (609) 984-2147

RENEWAL OF AUTHORIZATION TO DISCHARGE
5G2 -Basic Industrial Stormwater GP - NJ0088315 (5G2)

Facility Name:

PI ID #: 130633

WILENTA FEED INC

Facility Address:

NJPDES #: NJG0140325

46 HENRY ST
SECAUCUS, NJ 07094

Annual Recertification Due: Apr - Jun

Type of Activity: Stormwater Discharge General Permit Authorization Renewal

Owner:

PW HENRY STREET ASSOC INC
46 HENRY ST
SECAUCUS, NJ 07094

Operating Entity:

WILENTA FEED INC
46 HENRY ST
SECAUCUS, NJ 07096-2596

Issuance Date:

05/22/2007

Effective Date:

06/01/2007

Expiration Date:

05/31/2012

Your Request for Authorization under NJPDES General Permit No. NJ0088315 has been approved by the New Jersey Department of Environmental Protection.

Date: 05/22/2007

Ed Frankel, P.P., Section Chief
Bureau of Nonpoint Pollution Control
Division of Water Quality
New Jersey Department of Environmental Protection

PART I

NARRATIVE REQUIREMENTS

Basic Industrial Stormwater (GP)

A. Permit Scope

1. Geographic Area

- a. The Basic Industrial Stormwater General Permit applies to all areas of the State of New Jersey.

2. Authorized Discharges

- a. The Basic Industrial Stormwater General Permit ("permit") authorizes:
 - i. industrial stormwater discharges to the surface and/or ground waters of the State ("waters of the State") for facilities that can eliminate exposure of source materials and industrial activity, as defined by this permit, to such stormwater within the time frames specified by the permit; and
 - ii. the temporary discharge of existing equipment and vehicle wash wastewater until May 31, 2009 except for new facilities, as defined by this permit, pursuant to Section E of this permit.

B. Permit Summary

1. Eliminate Exposure

- a. Every facility authorized under this permit must eliminate exposure of source materials and industrial activities to stormwater, regulated under this permit, through the implementation of Best Management Practices (BMPs) as part of a Stormwater Pollution Prevention Plan (SPPP) within the time frames specified by the permit.

2. Prepare a Stormwater Pollution Prevention Plan (SPPP)

- a. Facilities must prepare an SPPP within six (6) months of the effective date of permit authorization (EDPA).
- b. Facilities being reauthorized as part of the automatic renewal must revise their SPPP on or before October 1, 2007 to incorporate additional requirements contained in the permit.

3. Implement a Stormwater Pollution Prevention Plan (SPPP)

- a. Facilities must implement the SPPP within eighteen (18) months of the EDPA.

4. Eliminate Unpermitted Discharges of Equipment and Vehicle Wash Wastewater

- a. Facilities must eliminate any existing unpermitted discharges of equipment and vehicle wash wastewater (if applicable) to the waters of the State on or before June 1, 2009.
- b. Upon the effective date of permit authorization, new facilities must not discharge equipment and vehicle wash wastewater to the waters of the State unless that discharge is authorized by a separate NJPDES permit.

5. Conduct Annual Inspections

WILENTA FEED INC, Secaucus

Permit No. NJG0140325
DST070001 Stormwater Discharge General Permit Authorization
Renewal

- a. Facilities must conduct annual self inspections to ensure that they are in compliance with their SPPP and that their BMPs effectively eliminate exposure.

6. Submit Certifications

- a. Facilities must submit the Department's Generic Certification Form certifying that they have prepared an SPPP, implemented an SPPP, and conducted an annual self inspection and that they are in compliance with all permit conditions in accordance with the time frames specified in the permit.

C. Stormwater Pollution Prevention Plan (SPPP)

1. Stormwater Pollution Prevention Plan (SPPP) General Requirements

- a. Each facility must prepare and implement an SPPP for each portion of their operation that generates industrial stormwater discharges to the waters of the State.
- b. Once the SPPP is implemented, there must be no exposure of source materials and/or industrial activity to such stormwater.
- c. The SPPP must accurately reflect facility operations and ensure that the facility is in compliance with permit requirements.
- d. The SPPP must be signed and dated, and retained for a period of at least five (5) years.

2. Amendments to the Stormwater Pollution Prevention Plan

- a. The SPPP must be amended accordingly anytime facility operations change to ensure that the facility continues to meet the requirements of this permit.
- b. Any amended SPPP must be signed and dated, and retained for a period of at least five (5) years.

3. Revisions to the Stormwater Pollution Prevention Plan

- a. Facilities being reauthorized as part of the automatic renewal must revise their SPPP on or before October 1, 2007 to incorporate additional requirements contained in the permit.

D. Contents of a Stormwater Pollution Prevention Plan

1. Inventory Requirements

- a. Include a detailed description of all source materials used, stored, or otherwise located at the facility and all industrial activities conducted at the facility.
- b. Include a list of any domestic sewage, non-contact cooling water, or process waste water (including leachate and contact cooling water) other than stormwater, which is generated at the facility and discharged through separate storm sewers to surface waters, or discharges to ground water.
 - i. For discharges identified above, list any final or draft NJPDES permits, pending NJPDES permit applications, or pending requests for authorization under another general NJPDES permit (including the NJPDES permit number where available).

2. Mapping Requirements

- a. Include a map (preferably drawn to scale) of the entire facility that contains the following:

WILENTA FEED INC, Secaucus

Permit No. NJG0140325
DST070001 Stormwater Discharge General Permit Authorization
Renewal

- i. the location(s) of existing buildings and other permanent structures;
- ii. all paved areas, including roads and access areas;
- iii. stormwater flow including, drainage patterns, stormwater conveyances (e.g., downspouts (where there is industrial activity on the roof), overland flow, swales, ditches and channels, and storm sewer pipes), and the location of all stormwater discharge structures;
- iv. the location(s), if any, where sanitary sewage, non-contact cooling water, or process wastewater (other than stormwater) generated by the facility enters storm water conveyance that discharge to the waters of the State;
- v. all locations where source materials are used, stored, or otherwise located at the facility and where all industrial activities occur at the facility, including, but not limited to, the following:
 - outdoor handling, treatment, storage, or disposal activities;
 - loading and unloading areas;
 - outdoor manufacturing, processing, or cleaning activities; and other activities that disturb the land surface (except for construction activities authorized under NJPDES Permit No. NJ0088323);
 - significant dust or particulate generating processes;
 - hazardous waste storage or disposal facilities;
 - all waste management, storage and disposal practices.

3. Initial Facility Assessment

- a. Include a narrative description of how source materials at the facility, that come into contact or have the potential to come into contact with stormwater (including, but not limited to, handling, transport, treatment, storage, and disposal), are managed. The narrative must include a description of the following:
 - i. location and method of material handling and transport (including loading and unloading);
 - ii. any existing BMPs used to:
 - minimize contact of source materials with stormwater;
 - reduce pollutants in stormwater (structural and non-structural);
 - divert stormwater to specific areas on or off-site, including diversion to containment areas, holding tanks, treatment facilities, or sanitary or combined sewers.
 - iii. any stormwater treatment.

4. Best Management Practices

- a. Include a description of the BMPs that will be implemented at the facility to:
 - i. eliminate exposure of source material and/or industrial activity to stormwater that is regulated under this permit; and
 - ii. ensure that the facility does not discharge domestic sewage, non-contact cooling water, and other process wastewaters to the waters of the State that requires a separate NJPDES permit. If such discharges exist, the permittee must cease the discharge and/or apply for and obtain a separate NJPDES permit.

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- iii. ensure that the facility has eliminated the unpermitted discharge of equipment and vehicle wash wastewater to the waters of the State on or before June 1, 2009 as required by Section E.1.c of this permit.

5. Implementation Schedule of Best Management Practices

- a. Include a schedule for full implementation of the BMPs identified above.
- b. The BMPs must be fully implemented on or before eighteen (18) months of the effective date of permit authorization.

6. Maintenance Plan

- a. Include a plan that ensures regular, preventative maintenance and appropriate repairs, including replacement, of all structural BMPs identified above and the updating of non-structural BMPs such as Standard Operating Procedures (SOPs).

7. Inspection Schedule

- a. Regular maintenance inspections must be conducted to ensure that all BMPs identified in the SPPP are being properly implemented and/or maintained.
- b. Record any problems identified and the corrective action(s) to be implemented. Re-inspect to verify that full remediation is achieved.

8. Additional Requirements

- a. The SPPP must include (or cite the location of) the following requirements, if applicable:
 - i. any spill reports prepared under section 313 in Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. 9601 et seq;
 - ii. any Spill Prevention Control and Countermeasure Plan (SPCC Plan) prepared under 40 CFR 112 and section 311 of the Clean Water Act, 33 U.S.C. 1321; any Discharge Prevention, Containment and Countermeasure Plan (DPCC Plan); and Discharge Cleanup and Removal Plan (DCR Plan) prepared under N.J.A.C. 7:1E; and
 - iii. for any industrial stormwater discharges through a municipal separate storm sewer system that has a final NJPDES discharge permit, compliance with all applicable requirements of the municipal stormwater program developed under that permit.

9. Employee Training

- a. Include records (or cite the location of records) of all training conducted to satisfy the annual employee training requirement in Section F.1.a of the permit.

E. Equipment and Vehicle Washing (including Boat Bottom Washing)

1. Temporary Authorization of Equipment and Vehicle Wash Wastewater Discharge(s)

- a. This permit authorizes existing discharges of equipment and vehicle wash wastewater until May 31, 2009 under the following conditions:
 - i. the discharge shall not cause foaming pursuant to N.J.A.C. 7:14A-12.6;
 - ii. the discharge shall not exhibit a visible sheen pursuant to N.J.A.C. 7:14A-12.8; and

iii. the discharge shall not cause an impairment of the receiving water body(ies).

2. Eliminating the Unpermitted Discharge of Equipment and Vehicle Wash Wastewater

- a. On or before June 1, 2009 facilities must eliminate any unpermitted discharge of equipment and vehicle wash wastewater, including rinse water with or without detergents, to the waters of the State by either:
- i. installing a vehicle wash wastewater reclaim/recycling system;
 - ii. capturing and hauling the wash wastewater for proper disposal;
 - iii. connecting to sanitary sewer (where applicable and approved by local authorities);
 - iv. ceasing the activity; or
 - v. applying for and obtaining a separate NJPDES permit.

F. Employee Training

1. Annual Employee Training

- a. Each facility must develop and conduct an annual Stormwater Pollution Prevention Plan training for employees on topics identified in the SPPP.
- i. At a minimum, annual employee training will include the BMPs identified in the facilities SPPP to ensure that the BMPs are being properly implemented and/or maintained.

G. Annual Inspection

1. Annual Inspection

- a. Once the SPPP has been implemented, the permittee must conduct annual self-inspections of the facility to ensure that the SPPP is:
- i. current and up-to-date;
 - ii. properly implemented; and
 - iii. effectively eliminating exposure of source materials and industrial activity to stormwater regulated under this permit, through the implementation of structural and non structural BMPs.
- b. If, during the annual inspection, it is determined that the facility is not in compliance with permit conditions an Incidents of Noncompliance Form must be completed, identifying the steps being taken to remedy the noncompliance and methods to prevent such incidents from recurring.
- i. The Incidents of Noncompliance Form must be submitted to the Department with the Department's Generic Certification Form.

H. Permit Submittals and Deadlines

1. Submittal Requirements

- a. Each facility must submit the Department's Generic Certification Form certifying that they have:
- i. prepared an SPPP;

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- ii. implemented their SPPP; and
- iii. conducted an annual inspection and are in compliance with the SPPP and the permit conditions.

2. Submittal Deadlines

- a. SPPP preparation and implementation certification(s) submittal requirements. (Note: Facilities that were previously authorized under this permit and have submitted their SPPP preparation and implementation certification(s) are not required to resubmit these certifications.)
 - i. Submit the Generic Certification Form certifying that the SPPP was prepared: within six (6) months from the effective date of permit authorization (EDPA).
 - ii. Submit the Generic Certification Form certifying that the SPPP was implemented: within eighteen (18) months from the effective date of permit authorization (EDPA).
- b. Annual Certification submittal requirements for facilities being reauthorized as part of this automatic renewal. (Note: The appropriate calendar quarter for this submittal is indicated on your Authorization to Discharge page.)
 - i. Submit the Generic Certification Form certifying that the annual inspection was conducted: annually, by the end of the second calendar quarter (April thru June).

I. Enforcement Inspections and Permitting Options

1. Enforcement of Permit Conditions

- a. The Department's Water Compliance and Enforcement Element routinely inspects facilities authorized under this permit. If violations of permit conditions occur, a facility may receive a Notice of Violation (NOV) and may be subject to penalties, including significant monetary penalties up to \$50,000 per day, per violation, pursuant to the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq).

2. Applying for Another NJPDES Stormwater Permit

- a. If a facility authorized under this permit discovers, during the preparation or implementation of their SPPP or anytime thereafter, that there is exposure of source materials and/or industrial activity to stormwater regulated under this permit or that the facility cannot comply with other provisions of this permit they should immediately contact the Bureau of Nonpoint Pollution Control at (609) 633-7021 or the Department's appropriate regional Bureau of Water Compliance and Enforcement to discuss permitting options.
- b. A facility that cannot comply with permit conditions may need to apply for an individual permit or for an industry specific general permit for its stormwater discharge. Authorization under this permit remains in effect until the date authorization under such other permit becomes effective or the Department revokes authorization under this permit..

J. General Conditions

1. Eligibility for Authorization

- a. This permit authorizes industrial stormwater discharges from new and existing facilities to the waters of the State, except for the following:

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- i. Stormwater discharges subject to federal effluent guideline limitations for stormwater (see 40 CFR Subchapter N); or
 - ii. Stormwater discharges authorized under another NJPDES Discharge to Surface Water (DSW) or Discharge to Ground Water (DGW) permit (including an expired permit), or combined with domestic wastewater or process wastewater prior to treatment.
 - iii. Stormwater discharges that may be fully authorized under NJPDES Permit No. NJ0088323 (a separate general permit for stormwater discharges from certain construction activities).
 - iv. Stormwater discharges from facilities with "sanitary landfills" as defined in N.J.A.C. 7:26-1.4 or hazardous waste landfills subject to N.J.A.C. 7:26G, unless those landfills have been closed in compliance with N.J.A.C. 7:26-2A.9 (the Solid Waste rules) or N.J.A.C. 7:26G (the Hazardous Waste rules), the appropriate certifications have been submitted in accordance with N.J.A.C. 7:26 or N.J.A.C. 7:26G, and the landfills are not disrupted in a manner that exposes solid waste to the stormwater discharge and/or the landfill is not disrupted. Such closed landfills are eligible for authorization under this permit.
 - v. Stormwater discharges from projects or activities that conflict with an adopted WQM plan.
- b. Facilities which are not eligible for authorization under this permit should contact the Bureau of Nonpoint Pollution Control at (609) 633-7021 to discuss other permitting options.

2. Who Must Submit the Request for Authorization

- a. A separate RFA must be submitted using the Department's RFA form by each person who is an operating entity for any part of the facility requiring a NJPDES permit for their industrial stormwater discharges.
- b. When a facility is owned by one person but is currently operated by another person, the operating entity must submit the RFA.
- c. Separate RFAs must be submitted for separate facilities except for:
 - i. facilities that have the same operating entity and are located on contiguous properties.

3. Contents of a Request for Authorization

- a. A completed RFA must include all of the following information:
 - i. Applicant(s)/Operating Entity's business name, mailing address, and telephone number;
 - ii. Parent company's (if applicable) name, mailing address, and telephone number;
 - iii. Property/Land owner's legal name, mailing address, including a contact person and telephone number;
 - iv. Location of Facility/Site's name, address, and lot and block;
 - v. Facility Contact's name, affiliation, mailing address, and telephone number;
 - vi. Facility description and current or proposed use;
 - vii. Operating Status (government, commercial, religious, charitable, public school);

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- viii. Status of Facility (existing or new operation) and, if the facility is a new operation, the date industrial activities will commence;
 - ix. Requested permit action and requested discharge activity;
 - x. List of other NJPDES permits associated with the facility (if applicable);
 - xi. Applicant Agent's name, position, company, company's mailing address, telephone and signature (if applicable);
 - xii. Applicant Certification and original signature; and
 - xiii. An 8.5" x 11" copy of a portion of the U.S. Geological Survey Topographic Map, 7.5 minute quadrangle series, depicting the site boundaries with existing discharge location(s), and the name of the quadrangle(s) where the site is located;
- b. Additional information may be required by the Department to be included as part of the RFA if the Department determines that such additional information (including other data, reports, specifications, plans, permits, or other information) is reasonably necessary to determine whether to authorize the discharge under this permit.

4. Where to Submit a Request for Authorization

- a. To obtain authorization to discharge stormwater under this permit you must submit a complete RFA to the following address:
 - i. New Jersey Department of Environmental Protection
Division of Water Quality
Bureau of Permit Management
P.O. Box 029
Trenton, New Jersey 08625-0029
- b. After review of the RFA, the Department will either:
 - i. Issue authorization under this permit. The authorization is effective on the date the Department issues the Authorization to Discharge; or
 - ii. Deny authorization and require submittal of an application for an individual stormwater permit; or
 - iii. Deny authorization and require submittal of an RFA for another general permit.
- c. The Department must issue or deny authorization within ninety (90) days of receipt of a complete RFA. If Department fails to issue or deny authorization within ninety (90) days, the authorization must be automatically issued.

5. Additional Notification

- a. Facilities that discharge industrial stormwater through a municipal separate storm sewer system must also submit a copy of the RFA to the owner and/or operating entity of that system.
- b. Persons requesting authorization must also submit a copy of the RFA to each owner (if any) of the facility who did not submit the RFA.

6. Deadline to Apply For an Existing Stormwater Discharge

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- a. Pursuant to N.J.A.C. 7:14A-24.4, the deadline for requesting authorization under a stormwater general permit or applying for an individual NJPDES stormwater permit was April 1, 1993 (with limited exceptions) for any "stormwater discharge associated with industrial activity."
- b. The Department may accept an RFA submitted after the foregoing deadline; however the discharger is liable for violations that occurred prior to the submission of the RFA, including discharging without a permit.

7. Automatic Renewal

- a. Authorization under this permit will be automatically renewed when this permit is reissued as provided by N.J.A.C. 7:14A-6.13(d)9 so long as the discharge authorized under this permit continues to be eligible. The Department shall issue a notice of renewed authorization to the facility.
- b. If the facility is aware of any information in the most recently submitted RFA that is no longer true, accurate, and/or complete, the facility shall provide the correct information to the Department within 90 days of the effective renewal authorization notice.

8. Extensions of Permit Deadlines

- a. The Department may grant up to a twelve (12) month extension to the deadline to implement an SPPP, if the facility submits a written request for such extension, at least thirty (30) days prior to the deadline, establishing to the Department's satisfaction that the Federal, State and local permits and approvals necessary for the construction of BMPs identified in the SPPP could not with due diligence be obtained within the time period set forth in the permit.

9. Permit Transfer - Change of Owner or Operating Entity

- a. Authorization under this permit may be automatically transferred to a new owner or operator with an industrial stormwater discharge at the same physical location pursuant to N.J.A.C. 7:14A-16.2(d) if the permittee provides written notice to the Department at least thirty (30) days prior to the proposed transfer date.
 - i. Permittees requesting a transfer of permit authorization should submit the Department's Application for Transfer of a Stormwater Permit form.
- b. If a permittee is moving their operations to a new physical location, the permit may not be transferred. The permittee must request a revocation for their existing permit authorization by submitting the Department's Request for Revocation form and submit a new RFA for their operations at the new location.
- c. The above mentioned forms are available on the Department's web site or by calling the Bureau of Nonpoint Pollution Control at (609) 633-7021.

10. Obligation to provide copies and/or allow review of the SPPP

- a. The permittee must provide a copy of the SPPP and the certifications required by the permit to the owner(s) of the facility.
- b. The permittee must make the SPPP available or provide a copy upon request to the owner and/or operator of any municipal separate storm sewer system through which the industrial stormwater is discharged.

- c. The permittee must make the SPPP available or provide a copy upon request to an authorized representative of the Department.
 - i. Upon review by an authorized representative, the Department may notify the permittee at anytime that the SPPP does not meet one or more of the permit requirements.
 - ii. Within thirty (30) days after receiving such notification (unless otherwise specified by the Department), the SPPP shall be amended to adequately address all deficiencies.

11. Other Laws

- a. In accordance with N.J.A.C. 7:14A-6.2(a)7, this permit does not authorize any infringement of State or local laws or regulations, including, but not limited to the Pinelands rules (N.J.A.C. 7:50), Discharge of Petroleum and other Hazardous Substances rules at N.J.A.C. 7:1E, and all other Department rules. No discharge of hazardous substances (as defined in N.J.A.C. 7:1E-1.6) resulting from an onsite spill shall be deemed to be "pursuant to and in compliance with this permit" within the meaning of the Spill Compensation and Control Act at N.J.S.A. 58:10-23.11c.

12. Discharge of Unauthorized Pollutants

- a. For stormwater discharges authorized by this permit, the permittee is exempt from N.J.A.C. 7:14A-6.2(a)2, which states that the discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application or request for authorization, shall constitute a violation of the permit.

13. Operations and Maintenance Manual

- a. The facility is exempt from the requirement to prepare an operations and maintenance manual, required by N.J.A.C. 7:14A-6.12(c), for the discharge authorized by this permit.

14. Construction Activities

- a. This permit does not authorize the discharge of stormwater that is associated with construction activities (see subparagraph 1x of the definition of "stormwater discharge associated with industrial activity" and the definition of "stormwater discharge associated with small construction activity" in N.J.A.C. 7:14A-1.2). In general, this is the discharge of stormwater to surface water from construction activity that disturbs one or more acre(s). Any facility that operates a construction site with such a discharge must submit a separate RFA or individual NJPDES DSW permit application for that discharge. An RFA submitted for the Basic Industrial Stormwater General Permit does not qualify as an RFA for such a discharge.
 - i. An RFA for stormwater discharges from construction activities (other than N.J. Department of Transportation construction activities) must be submitted to the appropriate State Soil Conservation District.
 - ii. If applying for an individual NJPDES DSW permit, submit the NJPDES 1 form, NJPDES Form RFC, and NJPDES Form R, Part A to the Department (see N.J.A.C. 7:14A-24.7).

K. Definitions

1. The following definitions apply to this permit.

- a. "Access Areas" means any immediate entry or egress (including roads and driveways) and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products used or created by the facility.

- b. "Best Management Practices" or "BMPs" include, but are not limited to, structural and non structural controls, and operation and maintenance procedures which can be applied before, during, and after pollution producing activities to reduce or eliminate the introduction of pollutants into receiving waters. (see N.J.A.C. 7:14A-1.2 for the full definition)
- c. "Contiguous" means directly abutting, or separated by a general access roadway or other right of way (with at least part of one property directly across the right of way from at least part of the other property).
- d. "Industrial Activity" means, but is not limited to, manufacturing, processing, disposing, storing, loading and unloading, transporting or conveying any raw material, intermediate product, final product, by-product, waste product or equipment. This also includes the treatment of a by-product or waste product and/or the maintenance of equipment associated with the regulated activity.
- e. "Industrial Stormwater" means stormwater, from areas of the facility where industrial activities occur and/or where source materials associated with that industrial activity are located, that discharges to the surface and/or ground waters of the State and are regulated under this permit.
- f. "New Authorization" means an existing facility submitting a Request for Authorization ("RFA") for an ongoing regulated industrial activity that has an existing industrial stormwater discharge to the waters of the State.
- g. "New Facility" means any entity that will be commencing a regulated industrial activity for the first time at that location that has not yet begun to discharge industrial stormwater to the waters of the State.
- h. "Operating Entity" means any person who alone or along with other persons has primary management and operational decision-making authority over any part of a facility.
- i. "Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water. This definition includes the terms commercial wastewater and industrial wastewater as used in 40 CFR Part 503. (Please note that for the purposes of this NJPDES permit, the stormwater discharges regulated by this permit are not process wastewaters.)
- j. "Source Materials" mean any material(s) including but not limited to raw materials, intermediate products, final products, waste materials, by-products, industrial machinery, and fuels, lubricants, solvents, and detergents located at the facility that is directly or indirectly related to their industrial activities and which could be a source of pollutants in an industrial stormwater discharge.
- k. "Stormwater" means water resulting from precipitation (including rain or snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewerage or drainage facilities or conveyed by snow removal equipment.
- l. "Vehicle" means any device by which people, goods, property or material, is or may be transported upon the water, air or ground.

L. Standard Conditions

- 1. The following general conditions are incorporated by reference. The permittee is required to comply with the regulations, which were in effect as of June 1, 2007.**

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- a. General Permits N.J.A.C. 7:14A-6.13
 - b. Penalties for Violations N.J.A.C. 7:14-8.1 et seq.
 - c. Incorporation by Reference N.J.A.C. 7:14A-2.3
 - d. Toxic Pollutants N.J.A.C. 7:14A-6.2(a)4i
 - e. Duty to Comply N.J.A.C. 7:14A-6.2(a)1 & 4
 - f. Duty to Mitigate N.J.A.C. 7:14A-6.2(a)5 & 11
 - g. Inspection and Entry N.J.A.C. 7:14A-2.11(e)
 - h. Enforcement Action N.J.A.C. 7:14A-2.9
 - i. Duty to Reapply N.J.A.C. 7:14A-4.2(e)3
 - j. Signatory Requirements for Applications and Reports N.J.A.C. 7:14A-4.9
 - k. Effect of Permit/Other Laws N.J.A.C. 7:14A-6.2(a)6 & 7 & 2.9(c)
 - l. Severability N.J.A.C. 7:14A-2.2
 - m. Administrative Continuation of Permits N.J.A.C. 7:14A-2.8
 - n. Permit Actions N.J.A.C. 7:14A-2.7(c)
 - o. Reopener Clause N.J.A.C. 7:14A-6.2(a)10, 16.4(b) & 25.7(b)
 - p. Permit Duration and Renewal N.J.A.C. 7:14A-2.7(a) & (b)
 - q. Consolidation of Permit Process N.J.A.C. 7:14A-15.5
 - r. Confidentiality N.J.A.C. 7:14A-18.2 & 2.11(g)
 - s. Fee Schedule N.J.A.C. 7:14A-3.1
 - t. UIC Corrective Action N.J.A.C. 7:14A-8.4
 - u. Additional Conditions Applicable to UIC Permits N.J.A.C. 7:14A-8.9
 - v. UIC Operating Criteria N.J.A.C. 7:14A-8.16
- 2. Operation And Maintenance**
- a. Need to Halt or Reduce not a Defense N.J.A.C. 7:14A-2.9(b)
 - b. Proper Operation and Maintenance N.J.A.C. 7:14A-6.12
- 3. Monitoring And Records**
- a. Monitoring N.J.A.C. 7:14A-6.5
 - b. Recordkeeping N.J.A.C. 7:14A-6.6

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c. Signatory Requirements for Monitoring Reports N.J.A.C. 7:14A-6.9

4. Reporting Requirements

a. Planned Changes N.J.A.C. 7:14A-6.7

b. Reporting of Monitoring Results N.J.A.C. 7:14A-6.8

c. Noncompliance Reporting N.J.A.C. 7:14A-6.10 & 6.8(h)

d. Hotline/Two Hour & Twenty-four Hour Reporting N.J.A.C. 7:14A-6.10(c) & (d)

e. Written Reporting N.J.A.C. 7:14A-6.10(e) & (f) & 6.8(h)

f. Duty to Provide Information N.J.A.C. 7:14A-2.11, 6.2(a)14 & 18.1

g. Compliance Schedules N.J.A.C. 7:14A-6.4

h. Transfer N.J.A.C. 7:14A-6.2(a)8 & 16.2

5. NJPDES Rules

a. Copies of the NJPDES rules may be purchased by contacting LexisNexis - Customer Service at (800) 223-1940, or go to the LexisNexis bookstore on the internet at www.lexisnexis.com/bookstore.

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Exhibit 3

Compliance Evaluation Summary and Checklist with Included flag

Date Printed: 10/23/2023

Activity: SCI 230002 *Standard Compliance Inspection (130633)

Title Description: SCI.FY24

Start Date/Time: 10/06/2023 **End Date/Time:** 10/06/2023

Program Interest: WILENTA FEED INC
130633 (NJPDES)
46 HENRY ST,
SECAUCUS TOWN, HUDSON
COUNTY

Mailing Address: 46 HENRY ST Secaucus NJ 07094

Responsibility Entity(s) **Program Interests Included in Inspection:**

Wilenta Feed Inc 130633 (Njpdcs)

Block(s) and Lot(s): No Block and Lot

<u>Lead Investigator</u>	<u>Other Investigators</u>	<u>Persons Interviewed</u>	<u>Witnesses</u>
Coppola, Maria		Michael Wilenta, COO, Wilenta Feed, Inc. 201-410-3309, 201-863-3035	Juan Nunez, Hudson County Regional Health Commission, 201-705-3797 Natia Shindin, Secaucus Health Department, 201-330-2031

General Comments

NJPDES General Stormwater Permit Number: NJG0140325, EDP: 02/01/2023, ExpDP: 01/31/2028

Wilenta Feed receives bakery by-products (food grade material) from various bakeries and recycles the material received by selling to animal feed companies.

A stockpile of food waste was observed being stored in front of the storage garage, in violation of the terms and conditions of the NJPDES Permit and with the terms and conditions outlined in the Judicial Consent Order (JCO) entered into by Wilenta on November 29, 2022. Food waste material was also present throughout the site as well as in the stormdrain located near the storage garage. The storage garage is designed to store in-coming food-grade materials which has permitted floor drains that discharge to an oil/water separator where solids settle out and are pumped to an approved location. The wastewater from the oil/water separator discharges to the drains that convey wastewater to Secaucus MUA.

Wilenta has the following storm water system:
All drains within the facility are tied into a discharge trough located at the foot of the driveway. The discharge trough flows to an on-site unlined stormwater detention basin. The detention basin discharges to two-subsurface baffled tanks where solids are collected and stormwater flows via pipe to a catch basin into the Secaucus stormwater system.

During the time of the inspection, the stormwater detention pond was filled with food grade grayish material. Additionally, a pump was present in the detention pond with a hose discharging material directly into the stormdrain located on Henry St.

Notice of Violation issued during time of inspection for the above noted violations.

Inspection Attribute(s):	Quantity(s)
Number of Attributes: 0	

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

130633 5G2 0 - Basic Industrial Stormwater (GP)

Requirement	Status RTC	Results or Comments	Req. Source Ref.# Req. Type
Immediately comply with the Water Pollution Control Act and the conditions of the NJPDES 5G2 Permit. [N.J.A.C. 7:14A- 2]	OC	Failure to eliminate all exposure of source materials to stormwater.	PEA 170002 T
Did the Permittee eliminate all exposure of source materials to stormwater?. [N.J.A.C. 7:14A- 6.2(a)1]	OC	Failure to eliminate all exposure of source materials to stormwater. See Summary Page of this Report and the NOV issued on 10/06/2023 for details.	DST 230001 18 T
Did the Permittee prepare a Stormwater Pollution Prevention Plan (SPPP) as required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 80 T
Was the SPPP amended to reflect any operational changes which affect the industrial stormwater discharge?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 84 T
Did the Permittee make the SPPP available or provide a copy upon request to an authorized representative of the Department?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 89 T
Does the SPPP include a detailed description of all source materials used, stored, or otherwise located at the facility and all industrial activities conducted at the facility?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 94 T
Does the SPPP include a list of all non-stormwater discharges, as defined by the Permit, to surface or ground water?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 95 T
Does the SPPP include a map of the entire facility containing all features specifically required by the Permit? . [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 99 T
Does the SPPP include a plan that ensures regular, preventative maintenance and appropriate repairs, including replacement, of all structural BMPs identified above and the updating of non-structural BMPs such as Standard Operating Procedures (SOPs)?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 109 T
Are monthly maintenance inspections being performed that ensure all BMPs identified in the SPPP are being properly implemented and/or maintained?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 111 T
Are monthly maintenance inspection records maintained onsite and available for Department inspection?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 113 T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance

130633 5G2 0 - Basic Industrial Stormwater (GP)

Requirement	Status RTC	Results or Comments	Req. Source Ref # Req. Type
Does the SPPP include or cite the location of any Spill Prevention Control and Countermeasure Plan (SPCC Plan), Discharge Prevention, Containment and Countermeasure Plan (DPCC Plan), and/or Discharge Cleanup and Removal Plan (DCR Plan), if applicable?. [N.J.A.C. 7:14A- 6.2(a)1]	NA		DST 230001 118 T
Is annual employee training being performed and recorded as required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 121 T
Once the SPPP has been implemented, has the Permittee conducted and documented annual self-inspections?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 126 T
Did the facility submit certification that the Annual Inspection was conducted each year by the end of the second calendar quarter (April - June)?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 140 S
Does the facility maintain records required by the Permit a minimum of five (5) years?. [N.J.A.C. 7:14A- 6.2(a)1]	IC	Yes	DST 230001 194 T

IC - In Compliance	ND - Compliance Not Determined	N - No	NA - Not Applicable	PV - Potential Violation	H - Heading	NI - Not Inspected
NC - No Obvious Concern	ON - Out of Compliance, Non-referred	Y - Yes	OC - Out of Compliance	DC - Data Collection	S - Sub-Heading	RTC - Return to Compliance



New Jersey Department of Environmental Protection
Water Compliance and Enforcement
Northern Regional Office
7 Ridgedale Avenue
Cedar Knolls, NJ 07927-1112
Tel: (973) 656-4099 Fax: (973) 656-4400

NOTICE OF VIOLATION

EA ID #: NEA 230001
(completed by DEP upon data entry)

Facility/Prog. Interest Name: Wilenta Feed Co. DEP ID NO: PJ # 130633

Location: Henry St Secaucus, Hudson County

Person Interviewed: Michael Wilenta Title: COO

You are hereby NOTIFIED that during a compliance evaluation on October 6, 2023, the following violation(s) of the indicated New Jersey State Statute(s), and the regulations promulgated thereunder, were observed. These violation(s) have been recorded as part of the permanent enforcement history for the above.

- New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.
- New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.
- New Jersey Water Supply and Waste Water Operators Licensing Act, N.J.S.A. 58:11-64 et seq.

Subject: the NJPDES Citation: NJAC 7:14 - 1.2015%

Description of Noncompliance: Failure to comply with the terms & conditions of the JCO: Failure to store source materials indoors, failure to stage & clean-up the stormwater sedimentation basin. Failure to make penalty payments

Subject: in accordance with Paragraph 4 of Citation: the JCO

Description of Noncompliance: Discharge of food waste material from stormwater detention pond via pump in sedimentation pond to the ~~g~~ storm drain to Peahorn Creek

You must take the following corrective actions:

Submittal or Action: _____

by _____ (date) OR _____ calendar days from _____

Submittal or Action: _____

by _____ (date) OR _____ calendar days from _____

Within 5 calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken to achieve compliance.

Issuance of this Notice of Violation serves as notice to you that the Department has determined that a violation(s) has occurred and does not preclude the State of New Jersey or any of its agencies from initiating administrative or judicial enforcement action, or from assessing penalties or from modifying this Notice of Violation, with respect to this or other violations. Pursuant to the above indicated statutes, violations of these regulations are subject to penalties of up to \$ 50,000 per day/offense.

Issued by: Maria Coppola Signature: [Signature] Date: 10/6/23

Received by: Michael Wilenta Signature: [Signature] Date: 10/6/23



New Jersey Department of Environmental Protection
Water Compliance and Enforcement
NOTICE OF VIOLATION

File # _____
PI # _____

Site Name: Wilenka Site Address: Henry St
Municipality: Seraucus Block: _____ Lot: _____ County: Hudson Zip: 07094
Property Owner: Wilenka Prop. Owner's Address: Same as above Phone: 201 863-3031
Responsible Entity (if other than Property Owner): Michael Wilenka R.E. Address: _____
R.E. City: _____ State: _____ Zip: _____ Phone: _____

On April 15, 2024 a representative from the NJDEP Water Compliance and Enforcement (WC&E) conducted an investigation into this site/matter. This NOTICE is issued based on facts observed by or known to the Department's representative issuing this NOTICE, to warn you that a violation(s) of the Statutes and Rules checked below has been found.

- New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.
- New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.
- New Jersey Water Supply and Waste Operators Licensing Act, N.J.S.A. 58:11-64 et seq.

EXPLANATION OF THIS NOTICE - Violation with citation(s) to the specific Rules issued under the above checked Statutes:

pump in detention basin at hose
pumping waste - gray material into storm drain
for waste material stored outside storage
garage - causing exposure in violation of 5-62
respond with 5 ~~calendar~~ days with list of corrective actions to remediate violations cited

- Violation above corrected at time of issuance See additional _____ (#) pages of **EXPLANATION OF THIS NOTICE**

PURPOSE OF THIS NOTICE - This is intended to serve as a NOTICE to you, to warn you of the above violations, in order to 1) provide you with an opportunity to voluntarily investigate the matter and, voluntarily take corrective action to address the identified violation(s) and 2) identify those violations, and time periods, pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where your voluntary action can prevent formal enforcement orders and penalties issued by the Department (see violations marked with an asterisk above *). This NOTICE does not constitute a formal enforcement order, a final agency action or a final legal determination that a violation has occurred. Therefore, this NOTICE may not be appealed or contested.

Neither the issuance of this NOTICE nor any corrective actions taken by you to address the violation(s) cited, precludes the State of New Jersey or any of its agencies from initiating future enforcement action (including issuance of a formal enforcement order and the assessment of penalties) with respect to the violations listed above or for any other violations. In the event the Department determines to pursue future formal enforcement action, you will then be provided with an opportunity to appeal or contest such action.

RESPONDING TO THIS NOTICE - Voluntary corrective actions taken in response to this NOTICE can affect the Department's determination on the need for or severity of any potential future enforcement action in this matter. In accordance with the Grace Period Law, the Department will not assess a penalty against you for the violations marked with an asterisk * above, if you take voluntary action to address and correct these violations at the time of issuance, or within the time periods indicated in this NOTICE. For violations identified in this NOTICE that are not subject to the Grace Period Law, the Department may consider any voluntary actions you take in response to this NOTICE as part of its determination 1) on whether to initiate future formal enforcement action for this site/matter and, 2) on the amount of any penalty that may be assessed in future enforcement actions. Please see items checked below regarding actions you may voluntarily undertake to address violations identified in this NOTICE.

CORRECTION ACTION PAGE(S) - The Corrective Action Page(s) outlines the timeframes pursuant to the Grace Period Law during which you may voluntarily take action to come into compliance. Depending on the nature of violations cited in this NOTICE, corrective action or compliance assistance recommendations for violations that are not subject to the Grace Period Law may also be outlined on this form.

- Not Provided for this NOTICE
 See additional _____ (#) attached pages

respond within 5 days of receipt of this NOV

COMPLIANCE RESPONSE FORM - Submission of a Compliance Response Form if checked below is voluntary. Completed forms should be sent to the Department contact indicated at the bottom of this NOTICE.

- Not Applicable
 If received within _____ days of receipt it will preserve your protection from penalty under Grace Period Law
 If received within _____ days of receipt it will be considered in potential future Department action regarding the violations cited.

FOR QUESTIONS REGARDING THIS NOTICE, please contact the Department representative issuing this NOTICE at the location indicated:

- Southern Water Enforcement
2 Riverside Drive, Suite 201
Camden, NJ 08103
Tel. (856) 614-3655 FAX (856) 614-3608
- Northern Water Enforcement
7 Ridgedale Ave., Cedar Knolls, NJ 07927-1112
Tel. (973) 656-4099 FAX (973) 656-4400
- Central Water Enforcement
PO Box 420
Trenton, NJ 08625-0420
Tel. (609) 292-3010 FAX (609) 292-6450

Issued by: Maria Cappola Date: 4/15/24 Signature: Maria Cappola
Received by (print): Michael Wilenka Date: 4/15/24 Signature (receipt only): [Signature]

NJDEP Use Only: Certified Mail Date Mailed _____ Article # _____

Exhibit 4



New Jersey Department of Environmental Protection
Water Compliance and Enforcement
Northern Regional Office
7 Ridgedale Avenue
Cedar Knolls, NJ 07927-1112
Tel: (973) 656-4099 Fax: (973) 656-4400

maria.cappola@
dep.nj.gov
609-439-9584

NOTICE OF VIOLATION

EA ID #: _____
(completed by DEP upon data entry)

Facility/Prog. Interest Name: Wilentz Feed Inc DEP ID NO: PT# 130633

Location: 46 Henry Street

Person Interviewed: Peter Wilentz Title: owner

You are hereby NOTIFIED that during a compliance evaluation on June 21, 2017, the following violation(s) of the indicated New Jersey State Statute(s), and the regulations promulgated thereunder, were observed. These violation(s) have been recorded as part of the permanent enforcement history for the above.

- New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.
- New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.
- New Jersey Water Supply and Waste Water Operators Licensing Act, N.J.S.A. 58:11-64 et seq.
- _____

Subject: Failure to comply with S62 Permit Citation: NJAC 7:14A-1.1

Description of Noncompliance: failure to implement Best Management Practices that prevents pollutants from coming into contact w/ stormwater

Subject: Unpermitted discharge to SW Citation: NJAC 7:14A-1.1

Description of Noncompliance: visual inspection of stormdrains and stormwater holding pond reveal discharge of fuel-grade products / red substances discharging to stormdrain & pond to SW -> Hackensack River

You must take the following corrective actions:

Submittal or Action: Cease unpermitted discharge
clean-up stormdrains, holding pond + remove source material
by 06/22/17 (date) OR 2 calendar days from June 21, 2017

Submittal or Action: Institute necessary BMPs to eliminate source material from coming into contact with stormwater
by June 22, 2017 (date) OR 2 calendar days from June 21, 2017

Within 2 calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken to achieve compliance.

Issuance of this Notice of Violation serves as notice to you that the Department has determined that a violation(s) has occurred and does not preclude the State of New Jersey or any of its agencies from initiating administrative or judicial enforcement action, or from assessing penalties or from modifying this Notice of Violation, with respect to this or other violations. Pursuant to the above indicated statutes, violations of these regulations are subject to penalties of up to \$50,000 per day/offense.

Issued by: Maria Cappola Signature: [Signature] Date: 06/21/17

Received by: Pete Wilentz Signature: [Signature] Date: 6/21/17



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Northern Bureau of Water Compliance and Enforcement
7 Ridgedale Ave. Ste. 202
Cedar Knolls, New Jersey 07927-1112
Telephone (973) 656-4099 Fax (973) 656-4400

BOB MARTIN
Commissioner

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

(Certified Mail Receipt No.: 7014 1200 0002 3186 0623)
(9590 9402 2096 6132 4214 08)

Peter Wilenta, President
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07094

June 27, 2017

RE: Compliance Evaluation and Assistance Inspection
Wilenta Feed, Incorporated
PROGRAM INTEREST ID # 130633
PROGRAM: Water Quality
Compliance Activity # SCI 170001
NJPDES NO. NJG0140325 - DST
Secaucus Town, Hudson County

Dear Mr. Wilenta:

A Compliance Evaluation and Assistance Inspection of your facility was conducted on June 21, 2017. Please address any items or concerns noted on the comments section of the attached report.

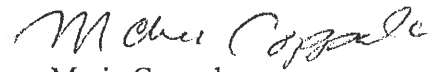
The items noted in the attached report with a compliance status of "OC" or "ON" and in the Notice of Violation issued during the inspection have placed your facility in violation of your NJPDES permit and/or the Water Pollution Control Act. A written report concerning specific details of remedial measures to be instituted for these items, as well as an implementation timetable, must be submitted to this Bureau within thirty (30) calendar days of receipt of this correspondence.

You are advised that the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) provides for substantial penalties in cases of permit violations. Therefore, your prompt attention to this matter is anticipated.

Note that you may also review your inspection report as well as many other DEP reports online at www.nj.gov/dep/inspections. This website also gives you the opportunity to provide us feedback about our operations. We would appreciate your input and will share all results with you upon your completion of a survey.

If you have any questions concerning the attached report, contact me at (973) 656-4099 or by letter through this Bureau.

Very truly yours,



Maria Coppola
Environmental Specialist 3
Northern Bureau of Water
Compliance and Enforcement

Attachment

c: Hudson Regional Health Commission
Bureau of Non-point Pollution Control

Exhibit 5

To Be Produced

Exhibit 6



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
COMPLIANCE & ENFORCEMENT
Office of the Assistant Commissioner
401 East State Street, 4th Floor, East Wing
Mail Code: 401-04B, PO Box 420
Trenton, New Jersey 08625-0420

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7015 0640 0001 2562 1299
9590 9402 2096 6132 4217 81

Peter Wilenta, Owner
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07096

August 25, 2017

Re: Administrative Order and Notice of
Civil Administrative Penalty Assessment
Wilenta Feed, Incorporated
NJPDES Permit No.: NJG0140325
Program Interest No.: 130633
Compliance Activity No.: PEA 170002
Secaucus Town, Hudson County

There is enclosed for service upon you an Administrative Order and Notice of Civil Administrative Penalty Assessment issued by the New Jersey Department of Environmental Protection (Department) pursuant to the provisions of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

Notice is hereby given that Wilenta Feed, Incorporated is entitled to request an administrative hearing. Any hearing request must include a copy of the cover letter and enforcement document for which a hearing is being requested, a complete Administrative Hearing Request Checklist and Tracking Form for Enforcement Documents (Tracking Form), with documentation and must be delivered within twenty (20) calendar days after receipt by Wilenta Feed, Incorporated of this Administrative Order and Notice of Civil Administrative Penalty Assessment to:

Office of Legal Affairs
ATTN: Adjudicatory Hearing Requests
New Jersey Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, New Jersey 08625-0402

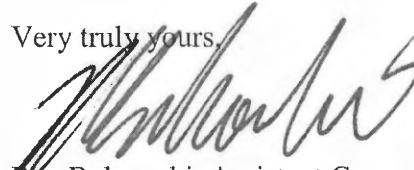
with a copy of the Tracking Form (with attachments) to be filed at the same time with:

Richard T. Paull, Chief
New Jersey Department of Environmental Protection
Northern Bureau of Water Compliance and Enforcement
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927

If no request for a hearing is received within twenty (20) calendar days of Wilenta Feed, Incorporated's receipt of the Administrative Order and Notice of Civil Administrative Penalty Assessment, it shall become a final Order upon the twenty-first (21st) calendar day following its receipt by Wilenta Feed, Incorporated and the penalty shall be due and payable. Please be advised that an untimely or incomplete hearing request will be denied and that the Department does not have the jurisdiction to extend the twenty (20) day deadline.

If you have any questions concerning this Administrative Order and Notice of Civil Administrative Penalty Assessment, please contact Maria Coppola, Northern Bureau of Water Compliance and Enforcement, at (973) 656-4099.

Very truly yours,



Ray Bukowski, Assistant Commissioner
Compliance and Enforcement

c: Richard T. Paull, Chief, Northern Bureau of Water Compliance and Enforcement
James Murphy, Chief, Bureau of Nonpoint Pollution Control

Administrative Hearing Request Checklist
and Tracking Form

I. Document Being Appealed: EA ID #PEA 170002 - 130633

_____ **Date Document Issued**

II. Person Requesting Hearing:

Name/Company

Address

Telephone #

Name of Attorney (if applicable)

Address

Telephone #

III. Please Include the Following Information As Part of Your Request:

- A. The date the alleged violator received the Enforcement Document.
- B. A **copy of the Enforcement Document** and a list of all issues being appealed.
- C. An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
- D. The defenses to each of the findings of fact in the enforcement document;
- E. Information supporting the request;
- F. An estimate of the time required for the hearing;
- G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
- I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

- 1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625

- 2. Richard T. Paull, Chief
Northern Bureau of
Water Compliance and Enforcement
7 Ridgedale Avenue,
Cedar Knolls, New Jersey 07927-1112

- 3. All co-permittees (w/attachments)

IV. Signature: _____ Date: _____

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
 NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
 COMPLIANCE AND ENFORCEMENT

INVOICE NO.
171387550

Program Interest
WILENTA FEED INC 46 HENRY ST Secaucus, NJ. 07094 130633

Type of Notice
ORIGINAL (NON-INITIAL)

Amount Due
\$ 90,000.00

Billing Date
08/22/17

Due Date
09/21/17

NJEMS Bill ID
000000174596000

Summary	
Total Amount Assessed	90,000.00
Amount Received Before Creating Installment Plan (if installment plans is allowed)	0.00
Amount Transferred To Installment Plan	0.00
Installment Amount	0.00
Total Amount Credited	0.00
Total Amount Debited (Other Than Amounts Assessed)	0.00
Total Amount Due	90,000.00

REMINDER:
 YOU CAN PAY THIS BILL ONLINE WITH A CREDIT CARD OR E-CHECK.
 GO TO [HTTP://WWW.NJ.GOV/DEP/ONLINE](http://www.nj.gov/dep/online) AND CLICK PAY A PAPER INVOICE.
 THE SYSTEM WILL ASK FOR THE INVOICE NUMBER THAT IS FOUND AT THE TOP-RIGHT CORNER OF THIS BILL.
 THERE IS NO FEE FOR PAYING VIA E-CHECK; FOR CREDIT CARD USE, 1.9% OF THE TOTAL + \$1 IS CHARGED.
 TO PAY BILL BY MAIL SEND A CHECK PAYABLE TO TREASURER-STATE OF NEW JERSEY.
 WRITE INVOICE NUMBER AND PROGRAM INTEREST NUMBER ON CHECK.
 RETURN CHECK WITH BOTTOM PORTION OF THIS INVOICE TO THE NJ DEPARTMENT OF TREASURY.
 IF YOU HAVE QUESTIONS SEE BACK OF INVOICE FOR CONTACT INFORMATION.

See Back Of Page for Billing Inquiries

INVOICE NO.
171387550

D9901F (R 3/14/02)

Let's protect our earth



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
 NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
 COMPLIANCE AND ENFORCEMENT

INVOICE NO.
171387550

NJEMS Bill ID
000000174596000

Program Interest ID
130633

Type of Notice
ORIGINAL (NON-INITIAL)

Billing Date
08/22/17

Due Date
09/21/17

Amount Due
\$ 90,000.00

For name and/or address change, check box and write corrections on the back of this invoice.

DO NOT FOLD, BEND OR MARK

Enter the Amount of your payment → \$

\$

RETURN THIS PORTION

with your check made payable to:



WILENTA FEED INC

95

46 HENRY ST
Secaucus

NJ 07094-2104

TREASURER - STATE OF NEW JERSEY
 and mail to:
 NJ DEPARTMENT OF TREASURY
 DIVISION OF REVENUE
 PO BOX 417
 TRENTON, NJ 08646-0417

EP1010101010101010100103000603031111110090000000003281713875503952



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
COMPLIANCE & ENFORCEMENT
Office of the Assistant Commissioner
401 East State Street, 4th Floor, East Wing
Mail Code: 401-04B, PO Box 420
Trenton, New Jersey 08625-0420

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

IN THE MATTER OF : **ADMINISTRATIVE ORDER AND**
WILENTA FEED, : **NOTICE OF CIVIL ADMINISTRATIVE**
INCORPORATED : **PENALTY ASSESSMENT**

PEA ID # 170003 - 130633

This Administrative Order and Notice of Civil Administrative Penalty Assessment (hereinafter "AONOCAPA" or "Order") is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "NJDEP" or the "Department") by N.J.S.A. 13:1D-1 et seq., and the Water Pollution Control Act (hereinafter "Act"), N.J.S.A. 58:10A-1 et seq., and is duly delegated to the Assistant Commissioner, Compliance and Enforcement pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. Wilenta Feed, Incorporated operates a facility located at 46 Henry Street, Town of Secaucus, Hudson County, New Jersey. Wilenta Feed, Incorporated is engaged in the business of receiving outdated food material and producing animal feed ingredients or producing an animal feed product.
2. The Department issued a New Jersey Pollutant Discharge Elimination System (hereinafter "NJPDES") Basic Industrial Stormwater General Permit, number NJG0140325 (hereinafter "5G2 Permit") to Wilenta Feed, Incorporated on January 8, 2013. The effective date of the NJPDES 5G2 Permit was February 1, 2013 and the expiration date is January 31, 2018. The NJPDES 5G2 Permit authorizes industrial stormwater discharges to the surface and/or ground waters of the State for facilities that can eliminate the exposure of source materials and/or industrial activity to stormwater discharges. Pursuant to the NJPDES 5G2 Permit, Wilenta Feed, Incorporated discharges pollutants, as defined by N.J.A.C. 7:14A-1.2, into the waters of the State. No person shall discharge any pollutant except in conformity with a valid NJPDES Permit issued pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

3. Wilenta Feed, Incorporated's NJPDES 5G2 Permit requires the elimination of exposure of source materials and/or industrial activity to stormwater discharges pursuant to Part I.D of the NJPDES 5G2 Permit through the preparation and implementation of a Stormwater Pollution Prevention Plan (hereinafter "SPPP") that includes the contents required in Part I.E of the NJPDES 5G2 Permit. Part I.E of the NJPDES 5G2 Permit requires, among other things, that the SPPP include a list of Best Management Practices (hereinafter "BMPs") to eliminate exposure of source materials and/or industrial activity to stormwater discharges.
4. Part I.J.1. of the NJPDES 5G2 Permit defines source materials as any material(s) including but not limited to raw materials, intermediate products, final products, waste materials, by-products, industrial machinery, and fuels, lubricants, solvents, and detergents located at the facility that is directly or indirectly related to their industrial activities and which could be a source of pollutants in an industrial stormwater discharge.
5. Part I.J.1. of the NJPDES 5G2 Permit defines industrial activity to mean, but not be limited to, manufacturing, processing, disposing, storing, loading and unloading, transporting or conveying any raw material, intermediate product, final product, by-product, waste product or equipment. This also includes the treatment of a by-product or waste product and/or the maintenance of equipment associated with the regulated activity.
6. As specified in Part I.E.2 of the NJPDES 5G2 Permit, Wilenta Feed, Incorporated prepared a Site Map which included the delineation of areas regulated by the NJPDES 5G2 Permit, including all source material storage areas as well as industrial activities and vehicle parking areas. The Site Map also includes stormwater control features such as drainage patterns, stormwater conveyances, and a designed stormwater basin.
7. The NJDEP's Northern Bureau of Water Compliance and Enforcement (hereinafter "NBWCE") conducted Compliance Evaluation and Assistance Inspections and issued Notices of Violation (hereinafter "NOVs") to Wilenta Feed, Incorporated on November 1, 2006 and July 11, 2007, citing Wilenta Feed, Incorporated for its failure to prepare and implement a SPPP, and for its failure to eliminate exposure of source materials and industrial activity to stormwater in accordance with its NJPDES 5G2 Permit.
8. On December 17, 2008, the NJDEP's NBWCE entered into a Settlement Agreement with Penalty with Wilenta Feed, Incorporated for the violations referenced in paragraph seven (7) above. The Settlement Agreement with Penalty required a penalty payment in the amount of \$11,250.00, which was paid in full.
9. On June 19, 2017, the NJDEP Hotline received an anonymous call of trash and debris in the driveway and running out into the street at the Wilenta Feed, Incorporated location. On June 20, 2017, a Hudson Regional Health Commission (hereinafter "HRHC") representative conducted an investigation of this incident. During the investigation, it was noted by the HRHC representative that large piles of food material had been stored in the area that is designated as a vehicle parking area on the Site Map referenced in paragraph six (6) above. The parking area has no cover. Moreover, due to heavy rains that occurred on June 20,

2017, a red liquid was observed entering the on-site storm drains which ultimately flow to the stormwater basin referenced in paragraph six (6) above. A visual inspection of the stormwater basin revealed that the red liquid entered the stormwater basin.

10. On June 21, 2017, NJDEP's NBWCE conducted an inspection of Wilenta Feed, Incorporated and issued a Compliance Evaluation and Assistance Inspection letter dated June 27, 2017. At the time of this inspection, the NBWCE observed a large pile of food material and a large pile of saw dust stored in the designated parking lot area as noted on Wilenta Feed, Incorporated's Site Map. The parking area has no cover. A red liquid was also observed running into Wilenta Feed, Incorporated's storm drain system and stormwater basin. As a result of these findings, the NJDEP determined that Wilenta Feed, Incorporated violated the conditions of the NJPDES 5G2 Permit as follows:
 - a. Unauthorized discharge of pollutants (red liquid into stormwater basin) to waters of the State via the Wilenta Feed, Incorporated's stormwater basin, in violation of N.J.A.C 7:14A-2.1(d); and
 - b. Failure to eliminate the exposure of source material and industrial activity to stormwater as required by Part I, Section D.1.(a) of the NJPDES 5G2 Permit.
11. During the above noted inspection on June 21, 2017, the NBWCE issued a Notice of Violation (NOV) to Wilenta Feed, Incorporated for the violations cited in paragraphs nine (9) and ten (10) above.
12. On June 23, 2017, the Department received Wilenta Feed, Incorporated's response to the NOV referenced in paragraph eleven (11) above. The response to the NOV acknowledges the failure to incorporate the necessary BMPs to eliminate the exposure of source material (food material) to stormwater as required by the NJPDES 5G2 Permit, due to unforeseen circumstances at the site.
13. On June 22, 23, and 26, 2017 and July 6, 2017, the NBWCE conducted follow-up inspections at Wilenta Feed, Incorporated. During the time of the follow-up inspections, the NBWCE observed a large pile of source material (food material) and a large pile of saw dust in the designated parking lot area of Wilenta Feed, Incorporated, and a thick yellow/gray material in the on-site storm drain and in the stormwater basin. As a result of the findings in this paragraph, it was determined by NJDEP that Wilenta Feed, Incorporated continued to violate the conditions of the NJPDES 5G2 Permit as follows:
 - a. Unauthorized discharge of pollutants (red liquid into stormwater basin) to waters of the State via the Wilenta Feed, Incorporated's stormwater basin, in violation of N.J.A.C 7:14A-2.1(d); and
 - b. Failure to eliminate the exposure of source material and industrial activity to stormwater as required by Part I, Section D.1.(a) of the NJPDES 5G2 Permit.

14. During the July 6, 2017 follow-up inspection, the NBWCE issued an NOV to Wilenta Feed, Incorporated for violations cited in paragraph thirteen (13) above.
15. On July 10, 2017, Wilenta Feed, Incorporated submitted a response to the June 21, 2017 inspection noted in paragraph ten (10) above and to the July 6, 2017 NOV noted in paragraph fourteen (14) above. Wilenta Feed, Incorporated's response states, among other things, that due to unforeseen circumstances, Wilenta Feed, Incorporated is not operating under normal circumstances and anticipates the situation should be resolved.
16. Based on the facts set forth in these FINDINGS, the Department has determined that Wilenta Feed, Incorporated has violated the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:14A-1 et seq.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

17. Wilenta Feed, Incorporated, shall immediately comply with Water Pollution Control Act and the conditions of its NJPDES 5G2 Permit.
18. This Order shall be effective upon receipt by Wilenta Feed, Incorporated, or someone on the violator's behalf authorized to accept service.

NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT
AND
NOTICE OF RIGHT TO A HEARING

19. Pursuant to N.J.S.A. 58:10A-10.d, and N.J.A.C. 7:14-8.5(e), and based upon the above FINDINGS, the Department has determined that a civil administrative penalty is hereby assessed against Wilenta Feed, Incorporated in the amount of \$90,000.00. The Department's rationale for this civil administrative penalty is set forth in Appendix A, which is attached hereto and incorporated herein.
20. Pursuant to N.J.S.A. 58:10A-10.d and N.J.A.C. 7:14-8.13, the Department may amend the civil administrative penalty amount for any economic benefit which a violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act.
21. Pursuant to N.J.S.A. 58:10A-10d(2) and N.J.A.C. 7:14-8.4 et seq., Wilenta Feed, Incorporated is entitled to request a hearing. Wilenta Feed, Incorporated shall, in its request for a hearing, complete and submit the herein ADMINISTRATIVE HEARING REQUEST CHECKLIST AND TRACKING FORM along with all required information. Submittal or granting of a hearing request does not stay the terms or effect of this ORDER.

22. If no request for a hearing is received within twenty (20) calendar days from receipt of this AONOCAPA, it shall become a Final Order upon the twenty-first (21st) calendar day following its receipt, and the penalty shall be due and payable.
23. If a timely request for a hearing is received, payment of the penalty is due when Wilenta Feed, Incorporated receives a notice of the denial of the request, or, if the hearing request is granted, when Wilenta Feed, Incorporated withdraws the request or abandons the hearing, or, if the hearing is conducted, when Wilenta Feed, Incorporated receives a final decision from the Commissioner on this matter.
24. Payment shall be made by certified or cashier's check payable to "Treasurer, State of New Jersey" and shall be submitted along with the bottom portion of the enclosed Enforcement Invoice to:

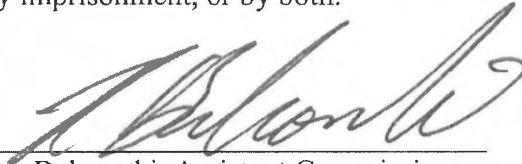
Department of Treasury
Division of Revenue
P.O. Box 417
Trenton, New Jersey 08646-0417

GENERAL PROVISIONS

25. This AONOCAPA is binding on Wilenta Feed, Incorporated, their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.
26. No obligations imposed by this AONOCAPA are intended to constitute a debt, which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare, and the environment.
27. This AONOCAPA is issued only for the violations identified in the FINDINGS hereinabove and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this AONOCAPA, the Department does not waive its rights to initiate additional enforcement actions.
28. Neither the issuance of this AONOCAPA nor anything contained herein shall relieve Wilenta Feed, Incorporated of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.
29. Pursuant to N.J.S.A. 58:10A-10.d, the Department is authorized to assess a civil administrative penalty of not more than \$50,000 for each violation, and each day during which the violation continues shall constitute an additional, separate, and distinct offense.

30. Pursuant to N.J.S.A. 58:10A-10.e, any person who violates the provisions of N.J.S.A. 58:10A-1 et seq., or any code, rule, or regulation promulgated pursuant thereto shall be liable to a penalty of not more than \$50,000 per day to be collected in a civil action, and any person who violates an administrative order issued pursuant to N.J.S.A. 58:10A-10.b, including this Administrative Order, or a court order issued pursuant to N.J.S.A. 58:10A-10.c, or who fails to pay a civil administrative penalty assessed pursuant to N.J.S.A. 58:10A-10.d in full after it is due is subject upon order of a court to a civil penalty not to exceed \$50,000 per day of such violations. Each day during which the violation continues constitutes an additional, separate, and distinct offense.
31. Pursuant to N.J.S.A. 58:10A-10.f, any person who purposely, knowingly, or recklessly violates the Act, and the violation causes a significant adverse environmental effect, shall, upon conviction, be guilty of a crime of the second degree, and shall, notwithstanding the provisions of subsection a of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$25,000 nor more than \$250,000 per day of violation, or by imprisonment, or by both.

DATE: 8/21/17

BY: 
Ray Bukowski, Assistant Commissioner
Compliance and Enforcement

APPENDIX A - PENALTY RATIONALE

Wilenta Feed, Incorporated
NJPDES Permit No.: NJG0140325
Program Interest No.: 130633
Compliance Activity No.: PEA 170002
Town of Secaucus, Hudson County

The Civil Administrative Penalty Assessed in this AONOCAPA corresponds to the violations listed in paragraphs nine (9), ten (10), and thirteen (13) (a total of six (6) violations: June 20, 21, 22, 23, and 26, 2017, and July 6, 2017) of the AONOCAPA and has been calculated pursuant to the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the Water Pollution Control Act Regulations, N.J.A.C. 7:14-8.1 et seq., as specified below.

NJPDES 5G2 PERMIT VIOLATIONS

Failure to eliminate the exposure of source materials to stormwater (Paragraphs nine (9), ten (10), and thirteen (13) of the AONOCAPA).

Pursuant to N.J.A.C. 7:14-8.5(e), the penalty has been calculated from the penalty matrix in N.J.A.C. 7:14-8.5(f), as follows:

SERIOUSNESS: The Department considers the Seriousness of the NJPDES 5G2 Permit violations to be **MODERATE**, as the violations substantially deviate from the requirements of the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

CONDUCT: The Department considers the Conduct of the violator to be **MODERATE**, as the NJPDES 5G2 Permit violations were unintentional, but foreseeable acts or omissions by the violator.

PENALTY: Pursuant to N.J.A.C. 7:14-8.5(f), a violation at Moderate Seriousness and Moderate Conduct yields a penalty of \$15,000 per violation.

Six (6) violations X \$15,000.00 = \$90,000.00

TOTAL PENALTY FOR THIS ADMINISTRATIVE ORDER AND NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT: \$90,000.00

Exhibit 7



New Jersey Department of Environmental Protection
Water Compliance and Enforcement
Northern Regional Office
7 Ridgedale Avenue
Cedar Knolls, NJ 07927-1112
Tel: (973) 656-4099 Fax: (973) 656-4400

NOTICE OF VIOLATION

EA ID #: _____
(completed by DEP upon data entry)

Facility/Prog. Interest Name: Wilenta Industries DEP ID NO: _____

Location: 6 Henry St. Secaucus, Hudson County

Person Interviewed: Mixie Wilenta Title: Manager

You are hereby NOTIFIED that during a compliance evaluation on Sept 12, 2017, the following violation(s) of the indicated New Jersey State Statute(s), and the regulations promulgated thereunder, were observed. These violation(s) have been recorded as part of the permanent enforcement history for the above.

- New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.
- New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.
- New Jersey Water Supply and Waste Water Operators Licensing Act, N.J.S.A. 58:11-64 et seq.
- _____

Subject: Failure to comply with 562 Permit Citation: 7:19A-1.1 et seq

Description of Noncompliance: Source material store outside, Failure to institute Best Management Practices which require source material to be stored in a manner that eliminates exposure to rain/storm

Subject: _____ Citation: _____

Description of Noncompliance: _____

You must take the following corrective actions:

Submittal or Action: immediately comply with the requirements

Returning to storage of source material's outlined in your 562 NPDES Permit
by Sept 17, 2017 (date) OR 5 calendar days from Sept 12, 2017

Submittal or Action: _____

by _____ (date) OR _____ calendar days from _____

Within 5 calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken to achieve compliance.

Issuance of this Notice of Violation serves as notice to you that the Department has determined that a violation(s) has occurred and does not preclude the State of New Jersey or any of its agencies from initiating administrative or judicial enforcement action, or from assessing penalties or from modifying this Notice of Violation, with respect to this or other violations. Pursuant to the above indicated statutes, violations of these regulations are subject to penalties of up to \$ 50,000 per day/offense.

Issued by: Manacoppola Signature: [Signature] Date: 09/12/17

Received by: [Signature] Signature: [Signature] Date: [Signature]

Exhibit 8



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHIL MURPHY

Governor

SHEILA OLIVER

Lt. Governor

Northern Bureau of Water Compliance and Enforcement

7 Ridgedale Ave. Ste. 202

Cedar Knolls, New Jersey 07927-1112

Telephone (973) 656-4099 Fax (973) 656-4400

CATHERINE R. McCABE

Commissioner

July 1, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7016 0910 0000 4005 9622
9590 9402 3426 7227 5319 14

Peter Wilenta, President
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07094

RE: Compliance Evaluation and Assistance Inspection
Wilenta Feed Incorporated
PROGRAM INTEREST ID # 130633
PROGRAM: Water Quality
Compliance Activity # SCI 180001
NJPDES NO. NJG0140325 - DST
Secaucus Town, Hudson County

Dear Mr. Wilenta:

A Compliance Evaluation and Assistance Inspection of your facility was conducted on June 21, 2019. Please address any items or concerns noted on the comments section of the attached report.

The items noted in the attached report with a compliance status of "OC" or "ON" and in the attached Notice of Violation have placed your facility in violation of your NJPDES permit and/or Water Pollution Control Act. A written report concerning specific details of remedial measures to be instituted for these items, as well as an implementation timetable, must be submitted to this Bureau within thirty (30) calendar days of receipt of this correspondence.

You are advised that the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., provides for substantial penalties in cases of permit violations. Therefore, your prompt attention to this matter is anticipated.



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Water Compliance & Enforcement
Northern Regional Office
7 Ridgedale Avenue
Cedar Knolls, NJ 07927
Telephone: (973) 656-4099 Fax: (973) 656-4400

CATHERINE R. McCABE
Commissioner

NOTICE OF VIOLATION

EA ID #: PEA190002 - 130633

Name of violator: Wilenta Feed Inc
Location: 46 Henry Street, Secaucus Town, NEW JERSEY 07094
Identifying #: 130633
Person interviewed and title: Michael Wilenta, Wilenta Feed, Incorporated, 201-863-3035

You are hereby NOTIFIED that during a Compliance Evaluation and Assistance Inspection at the above location on June 21, 2019, the following violations of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.) were observed.

Requirement: Pursuant to N.J.A.C. 7:14A- 6.2(a)1, every facility authorized under this permit shall eliminate the exposure of source materials and/ or industrial activities to stormwater discharges as required in Part 1.D.[N.J.A.C. 7:14A-6.2(a)1]

Description of Noncompliance: Failure to eliminate all exposure of source materials to stormwater. Specifically, failure to completely eliminate all source material from areas that discharge to the stormwater system during rain events.

You must take the following corrective actions:

1. Implement necessary Best Management Practices to eliminate source materials from coming into contact with stormwater during rain events. N.J.A.C. 7:14A- 6.2(a)1.

Within **thirty (30)** calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken or will take to achieve compliance.

This Notice of Violation serves as notice that the NJDEP, Water Compliance and Enforcement, has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the

Exhibit 9



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHIL MURPHY

Governor

SHEILA OLIVER

Lt. Governor

Northern Bureau of Water Compliance and Enforcement

7 Ridgedale Ave. Ste. 202

Cedar Knolls, New Jersey 07927-1112

Telephone (973) 656-4099 Fax (973) 656-4400

CATHERINE R. McCABE

Commissioner

CERTIFIED MAIL

RETURN RECEIPT REQUEST

7018 2290 0001 5108 9698

9590 9402 2485 6306 9636 35

November 8, 2019

Peter Wilenta, President
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07094

RE: Notice of Violation
Wilenta Feed Incorporated
PROGRAM INTEREST ID # 130633
PROGRAM: Water Quality
Compliance Activity # PEA190002
NJPDES NO. NJG0140325 - DST
Secaucus Town, Hudson County

Dear Mr. Wilenta

Please find enclosed a Notice of Violation (NOV) for violating the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.). The attached NOV details the violations which occurred at Wilenta Feed, Incorporated. Please note that you are required to respond to the Department as indicated in the enclosed NOV.

Should you have any questions concerning the enclosed NOV, please contact me at (973) 656-4099 or by letter through this Bureau.

Very Truly Yours,

Maria Coppola
Environmental Specialist 3
Northern Bureau of Water
Compliance and Enforcement

- c: Chief Donald Hirsch, Northern Bureau of Water Compliance and Enforcement
Brian Bigler, Secaucus Municipal Utilities Authority
Carlos L. Rodriguez, Program Coordinator, Hudson Regional Health Commission



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Water Compliance & Enforcement
Northern Regional Office
7 Ridgedale Avenue
Cedar Knolls, NJ 07927
Telephone: (973) 656-4099 Fax: (973) 656-4400

CATHERINE R. McCABE
Commissioner

NOTICE OF VIOLATION

EA ID #: PEA190003 - 130633

Name of violator: Wilenta Feed Incorporated
Location: 46 Henry Street, Secaucus Town, NEW JERSEY 07094
Identifying #: 130633
Person interviewed and title: Michael Wilenta, Wilenta Feed, Incorporated

You are hereby NOTIFIED that during an investigation at the above location on 09/20/2019, the following violations of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.) were observed.

Requirement: Pursuant to N.J.A.C. 7:14A- 6.2(a)1, every facility authorized under this permit shall eliminate the exposure of source materials and/ or industrial activities to stormwater discharges as required in Part 1.D.

Description of Noncompliance: Failure to eliminate all exposure of source materials to stormwater.

Requirement: Pursuant to N.J.A.C. 7:14A-6.2(a)1, cease the unpermitted discharge to surface water, clean-up storm drains, holding pond, and remove source material. Institute necessary BMPs to eliminate source material from coming into contact with stormwater.

Description of Noncompliance: Failure to remove food-waste material from the stormwater retention pond.

Requirement: Pursuant to N.J.A.C. 7:14A- 2.1(d), it shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by the Department.

Description of Noncompliance: Discharging pollutants to the surface waters of the State without a valid NJPDES permit issued by the Department. Specifically, a brown fluid was present around the stormwater trough at the edge of the property which ultimately discharges to Penhorn Creek.

Exhibit 10



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER COMPLIANCE & ENFORCEMENT
NORTHERN REGIONAL OFFICE
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Tel. (973) 656-4099 • Fax. (973) 656-4400

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CATHERINE R. McCABE
Commissioner

SENT VIA EMAIL

July 14, 2020

Peter Wilenta, President
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07094

RE: Compliance Evaluation and Assistance Inspection
Wilenta Feed Incorporated
PROGRAM INTEREST ID # 130633
PROGRAM: Water Quality
Compliance Activity # SCI 180001
NJPDES NO. NJG0140325 - DST
Secaucus Town, Hudson County

Dear Mr. Wilenta:

A Compliance Evaluation and Assistance Inspection of your facility was conducted on June 12, 2020. Please address any items or concerns noted on the comments section of the attached report.

The items noted in the attached report with a compliance status of "OC" or "ON" and in the attached Notice of Violation have placed your facility in violation of your NJPDES permit and/or Water Pollution Control Act. A written report concerning specific details of remedial measures to be instituted for these items, as well as an implementation timetable, must be submitted to this Bureau within thirty (30) calendar days of receipt of this correspondence.

You are advised that the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., provides for substantial penalties in cases of permit violations. Therefore, your prompt attention to this matter is anticipated.

Note that you may also review your inspection report as well as many other DEP reports online at www.nj.gov/dep/inspections. This website also gives you the opportunity to provide us feedback about our operations. We would appreciate your input and will share all results with you upon your

If you have any questions concerning the attached report, contact me at (973) 656-4099 or by letter through this Bureau.

Very truly yours,

Maria Coppola

Maria Coppola
Environmental Specialist 3
Northern Bureau of Water
Compliance and Enforcement

Attachment

c: Chief Donald Hirsch, Northern Bureau of Water Compliance and Enforcement
Bureau of Nonpoint Pollution Control



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER COMPLIANCE AND ENFORCEMENT
NORTHERN REGIONAL OFFICE
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Tel. (973) 656-4099 • Fax (973) 656-4400

PHILI D. MURPHY
Governor

SHEILAY.OLIVER
Lt. Governor

CATHERINE R. McCABE
Commissioner

SENT VIA EMAIL

NOTICE OF VIOLATION

EA ID #: PEA200001 - 130633

Name of violator: Wilenta Feed Inc.
Location: 46 Henry St, Secaucus Town, NEW JERSEY 07094
Identifying #: 130633
Person interviewed and title: Michael Wilenta, Wilenta Feed, Incorporated, 201-863-3035

You are hereby NOTIFIED that during a Compliance Evaluation and Assistance Inspection at the above location on June 12, 2020, the following violation of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.) was observed.

Requirement: Pursuant to N.J.A.C. 7:14A- 6.2(a)1, every facility authorized under this permit shall eliminate the exposure of source materials and/ or industrial activities to stormwater discharges as required in Part 1.D.

Description of Noncompliance: Failure to eliminate all exposure of source materials to stormwater.

You must take the following corrective actions:

1. Comply with permit requirements: on the effective date of this document. [N.J.A.C. 7:14A- 6].

Within [30] thirty calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken or will take to achieve compliance.

Wilenta Feed Inc
PEA200001 - 130633
Page 2 of 2

This Notice of Violation serves as notice that the NJDEP, Water Compliance and Enforcement, has determined that a violation has occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You **may** appeal or contest such formal actions. Violations of the above regulations are subject to penalties of up to \$50,000 per day/offense.

Issued by: Maria Coppola
Print Name

Date: 07/14/2020

Signature: *Maria Coppola*
Sign Name

Exhibit 11



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

WATER COMPLIANCE & ENFORCEMENT

NORTHERN REGIONAL OFFICE

7 Ridgedale Avenue

Cedar Knolls, New Jersey 07927

Tel. (973) 656-4099 • Fax. (973) 656-4400

PHILIP D. MURPHY

Governor

SHEILA Y. OLIVER

Lt. Governor

CATHERINE R. McCABE

Commissioner

SENT VIA EMAIL

October 8, 2020

Peter Wilenta, President
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07094

RE: Compliance Evaluation and Assistance Inspection
Wilenta Feed Incorporated
PROGRAM INTEREST ID # 130633
PROGRAM: Water Quality
Compliance Activity # SCI 200002
NJPDES NO. NJG0140325 - DST
Secaucus Town, Hudson County

Dear Mr. Wilenta:

A Compliance Evaluation and Assistance Inspection of your facility was conducted on August 24, 2020. Please address any items or concerns noted on the comments section of the attached report.

The items noted in the attached report with a compliance status of "OC" or "ON" and in the attached Notice of Violation have placed your facility in violation of your NJPDES permit and/or Water Pollution Control Act. A written report concerning specific details of remedial measures to be instituted for these items, as well as an implementation timetable, must be submitted to this Bureau within thirty (30) calendar days of receipt of this correspondence.

You are advised that the New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, provides for substantial penalties in cases of permit violations. Therefore, your prompt attention to this matter is anticipated.

Note that you may also review your inspection report as well as many other DEP reports online at www.nj.gov/dep/inspections. This website also gives you the opportunity to provide us feedback about our operations. We would appreciate your input and will share all results with you upon your completion of a survey.

If you have any questions concerning the attached report, contact me at (973) 656-4099 or by letter through this Bureau.

Very truly yours,

Maria Coppola

Maria Coppola
Environmental Specialist 3
Northern Bureau of Water
Compliance and Enforcement

Attachment

c: Chief Donald Hirsch, Northern Bureau of Water Compliance and Enforcement
Bureau of Nonpoint Pollution Control



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER COMPLIANCE AND ENFORCEMENT
NORTHERN REGIONAL OFFICE
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Tel. (973) 656-4099 • Fax (973) 656-4400

PHILIP MURPHY
Governor

SHEILAY. LIVER
Lt. Governor

CATHERINE R. McCABE
Commissioner

SENT VIA EMAIL

NOTICE OF VIOLATION

EA ID #: PEA200001 - 130633

Name of violator: Wilenta Feed Inc.
Location: 46 Henry St, Secaucus Town, NEW JERSEY 07094
Identifying #: 130633
Person interviewed and title: Michael Wilenta, Wilenta Feed, Incorporated, 201-863-3035

You are hereby NOTIFIED that during a Compliance Evaluation and Assistance Inspection at the above location on August 24, 2020, the following violations of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.) were observed.

Requirement: Pursuant to N.J.A.C. 7:14A- 6.2(a)1, every facility authorized under this permit shall eliminate the exposure of source materials and/ or industrial activities to stormwater discharges as required in Part 1.D.

Description of Noncompliance: Failure to eliminate all exposure of source materials to stormwater.

Requirement: Pursuant to N.J.A.C. 7:14A- 6.2(a)1, Submit the Certification Form certifying that an annual inspection was conducted during April and June of each calendar year.

Description of Noncompliance: Failure to submit the Certification Form that the Annual Inspection was conducted during the required calendar quarter. Specifically, for calendar years 2019 and 2020.

You must take the following corrective actions:

1. Comply with permit requirements on the effective date of this document. [N.J.A.C. 7:14A- 6].

Wilenta Feed Inc
PEA200002 - 130633
Page 2 of 2

Within [30] thirty calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken or will take to achieve compliance.

This Notice of Violation serves as notice that the NJDEP, Water Compliance and Enforcement, has determined that violations have occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You **may** appeal or contest such formal actions. Violations of the above regulations are subject to penalties of up to \$50,000 per day/offense.

Issued by: Maria Coppola
Print Name

Date: October 8, 2020

Signature: *Maria Coppola*
Sign Name

Exhibit 12



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER COMPLIANCE AND ENFORCEMENT
NORTHERN REGIONAL OFFICE
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Tel. (973) 656-4099 • Fax (973) 656-4400

PHILIP MURPHY
Governor

SHEILA OLIVER
Lt. Governor

SHAWN M. LATOURETTE
Acting Commissioner

NOTICE OF VIOLATION

EA ID #: PEA210001 - 130633

Name of violator: Wilenta Feed Incorporated
Location: 46 Henry Street, Secaucus Town, NEW JERSEY 07094
Identifying #: 130633
Person interviewed and title: Michael Wilenta, Wilenta Feed, Incorporated, 201-863-3035,

You are hereby NOTIFIED that during an investigation conducted on February 8, 2021, the following violations of the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.) and the New Jersey Pollutant Discharge Elimination System regulations (N.J.A.C. 7:14A-1 et seq.) were observed.

Requirement: Pursuant to N.J.A.C. 7:14A- 6.2(a)1, every facility authorized under this permit shall eliminate the exposure of source materials and/ or industrial activities to stormwater discharges as required in Part 1.D.

Description of Noncompliance: Failure to implement Best Management Practices (BMPs) to eliminate all exposure of source materials to stormwater.

Requirement: Pursuant to N.J.A.C. 7:14A- 2.1(d), it shall be unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by the Department. [N.J.A.C. 7:14A- 2.1(d).

Description of Noncompliance: Discharging pollutants to the surface waters of the State without a valid NJPDES permit issued by the Department. Specifically, a grayish-brown frozen material was present in and around the stormwater drain in the middle for the property, a container with food-material was discharging liquid onto the ground. Additionally, failure to remove food-waste material from the stormwater retention pond.

You must take the following corrective actions:

Wilenta Feed Inc
PEA210001 - 130633
Page 2 of 2

1. Cease the discharge and immediately implement necessary BMPs to prevent source materials from coming into contact with stormwater runoff during rain events.: on the effective date of this document.

Within **thirty (30)** calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken or will take to achieve compliance.

This Notice of Violation serves as notice that the NJDEP, Water Compliance and Enforcement, has determined that violations have occurred. It does not constitute final agency action and may not be appealed or contested. The issuance of this Notice or compliance therewith does not preclude the State of New Jersey or any of its agencies from initiating formal administrative and/or judicial enforcement action (including assessment of penalties), with respect to the violations listed above or for any other violations. You **may** appeal or contest such formal actions. Violations of the above regulations are subject to penalties of up to \$50,000 per day/offense.

Issued by: Maria Coppola
Print Name

Date: February 22, 2021

Signature: *Maria Coppola*
Sign Name

Exhibit 13

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. BOX 093
Trenton, New Jersey 08625-0093
Attorney for Plaintiffs

By: Daniel P. Resler
Deputy Attorney General
Attorney ID: 324172020
Ph: (609) 376-2735
daniel.resler@law.njoag.gov

NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, and SHAWN LATOURETTE, ACTING COMMISSIONER OF DEPARTMENT OF ENVIRONMENTAL PROTECTION,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - HUDSON COUNTY DOCKET NO.
	:	
Plaintiffs,	:	<u>CIVIL ACTION</u>
	:	COMPLAINT
v.	:	
	:	
WILENTA FEED, INC.; "XYZ CORPORATIONS" 1-10; and "JOHN AND/OR JANE DOES" 1-10,	:	
	:	
Defendants.	:	
	:	

Plaintiffs, New Jersey Department of Environmental Protection ("DEP"), and Acting Commissioner of DEP Shawn LaTourette ("Acting Commissioner") (collectively, "Department" or "Plaintiffs"), by and through their attorney, file this Complaint against Defendants Wilenta Feed, Inc. ("Defendant" or "Wilenta Feed"); "XYZ Corporations" 1-10 (Names Fictitious); and "John and/or Jane Does" 1-10 (Names Fictitious) (collectively "Defendants"), and allege as follows:

STATEMENT OF THE CASE

1. Wilenta Feed, a food waste recycling business in Secaucus, New Jersey ("Site"), repeatedly has caused pollutants from its operation to run off into the storm sewer system and, ultimately, to New Jersey's surface waters in violation of the Water Pollution Control Act ("Act"), N.J.S.A. 58:10A-1 to -35, and the terms of Defendant's permit despite the Department's numerous administrative efforts to secure Defendant's compliance.

2. Wilenta Feed's business involves converting food waste, largely bakery products, into animal feed or animal feed ingredients.

3. Wilenta Feed received a New Jersey Pollutant Discharge Elimination System ("NJPDES") basic industrial stormwater permit in 2013, which prohibits Defendant from exposing food waste and by-products and Defendant's industrial activities to stormwater discharges.

4. Despite this prohibition, DEP has observed and documented numerous occasions of Defendant's improper storage practices, including the storing of materials in open-air piles and unsealed containers exposed to stormwater, causing pollutants to run off into the storm sewer system and, ultimately, to New Jersey's surface waters including Penhorn Creek, a tributary to the Hackensack River.

5. The introduction of food waste-related pollutants to surface water bodies can significantly decrease dissolved oxygen levels of the water. This decrease in dissolved oxygen levels can cause stress, asphyxiation, and death in aquatic life. Such harm to aquatic life, in turn reduces opportunities for recreation and enjoyment of these waterways by New Jersey residents and visitors.

6. DEP issued numerous warnings and Notices of Violation ("NOV") to bring Wilenta Feed into compliance with the conditions of its permit and the Act and to prevent further stormwater pollution.

7. The community surrounding the Site has a significant low-income, minority population. Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, and soil pollution, and accompanying potential for increased public health impacts.

8. Residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health without regard to a community's socio-economic condition. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018) and Environmental Justice Law, N.J.S.A. 13:1D-157 to 161.

9. The Department now brings this suit against Wilenta Feed (1) to compel the company to cease the pollution caused by exposure

of food wastes to stormwater at the Site; (2) to recover the costs the Department has incurred and will incur to remove, correct, and/or terminate any adverse effects on surface water quality resulting from the unauthorized discharges; (3) to impose civil statutory penalties; and (4) for other related relief.

PARTIES

10. Plaintiff DEP is a principal department in the executive branch of the State. DEP maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey. Pursuant to the authority vested in the DEP by the aforementioned statutes to protect human health and the environment, DEP is empowered to compel parties to remediate contamination and to bring proceedings in Superior Court.

11. Plaintiff Shawn LaTourette, Acting Commissioner of DEP, is vested with various powers and authority, including those conferred by the DEP's enabling legislation, N.J.S.A. 13:1D-1 to -19. The Acting Commissioner is authorized by law to commence a civil action in Superior Court for appropriate relief for any violation of the Act. N.J.S.A. 58:10A-10.c.

12. Defendant Wilenta Feed is a New Jersey corporation. Its principal address is 46 Henry Street, Secaucus, Hudson County, New Jersey.

13. "XYZ Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the

filing of this Complaint, certain of which are corporate successors to, predecessors of, insurers of, or are otherwise related to, Defendant.

14. "John and/or Jane Does" 1-10, these names being fictitious, are natural individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, Defendant and/or one or more of the XYZ Corporation defendants.

FACTUAL ALLEGATIONS

15. The Site, located at 46 Henry Street, Secaucus, Hudson County, New Jersey, is designated as Block 50, Lot 5, on the City of Secaucus tax map.

16. DEP has assigned the Site Water Quality Program Interest ("PI") Number 130633.

17. Defendant operates a food waste recycling business at the Site and, upon information and belief, has operated the business since at least 2006. Defendant's business involves the receipt and storage of food waste, largely bakery products, and the conversion of that food waste into animal feed or animal feed ingredients.

18. Defendant applied for and was issued a NJPDES Basic Industrial Stormwater General Permit, designated as NJG0140325 ("Permit"), on January 8, 2013.

19. The Permit took effect on February 1, 2013, and was renewed on February 1, 2018.

20. The Permit requires Defendant to manage stormwater discharge from the Site. Specifically, the Permit requires Defendant to prevent source materials and/or industrial activity from being exposed to stormwater discharges.

21. The Permit defines "source materials" to include raw materials, intermediate products, final products, waste materials, by-products, industrial machinery, and fuels, lubricants, solvents, and detergents located at the Site that are directly or indirectly related to Defendant's industrial activity and could be a source of pollutants in industrial stormwater discharge.

22. Food waste materials and sawdust are "source materials" under the Permit.

23. The Permit defines "industrial activity" to include manufacturing, processing, disposing, storing, loading and unloading, transporting or conveying any raw material, intermediate product, final product, by-product, waste product, or equipment. "Industrial activity" also includes the treatment of a by-product or waste product and/or the maintenance of equipment associated with the regulated activity.

24. The storage and recycling of food wastes into animal feed are industrial activities as defined in the Permit.

25. On or around June 19, 2017, DEP received a report of trash and debris covering the driveway at the Site, running off into the public street.

26. On or around June 20, 2017, a Hudson Regional Health Commission ("HRHC") representative investigated the Site and discovered that large amounts of food waste material were being stored in the Site's asphalt parking lot with no cover.

27. The HRHC representative observed a red liquid running from the food waste (source material) into a stormwater basin at the Site.

28. On or around June 21, 2017, DEP conducted an inspection of the Site. The DEP inspector observed the piles of food waste stored uncovered in Defendant's parking lot.

29. The DEP inspector also observed the red liquid running from the food waste into a storm drain at the Site.

30. The discharge of red liquid was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the Act's regulations, including, N.J.A.C. 7:14A-2.1(d).

31. Upon information and belief, the red liquid running from the food waste into a storm drain at the Site resulted from Defendant's failure to eliminate exposure of source material and industrial activity to stormwater in violation of Part I, Section D.1(a) of the Permit.

32. DEP issued a NOV to Defendant on June 21, 2017. In response to the NOV, Defendant claimed through their consultant George C. Cascino in a letter received by DEP on June 23, 2017 that the mill to which they usually shipped their processed materials was temporarily out of service, causing a buildup of excess materials, and that the circumstances giving rise to the violations would be promptly resolved.

33. On or around June 22, 23, and 26 and July 6, 2017, DEP conducted follow-up inspections at the Site. Each of these inspections revealed that piles of food waste and sawdust continued to be stored uncovered in the parking area at the Site. DEP also observed that the red liquid continued to run from the source material into a stormwater basin at the Site.

34. On or around July 6, 2017, a DEP inspector also observed a yellow-gray material in the storm drain at the Site, as well as in the stormwater basin.

35. The discharge of yellow-gray material was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the Act. N.J.A.C 7:14A-2.1(d).

36. Upon information and belief, the yellow-gray material observed in the storm drain and in the stormwater basin at the Site was the result of Defendant's failure to eliminate exposure

of source material and industrial activity to stormwater in violation of Part I, Section D.1(a) of the Permit.

37. On or around July 6, 2017, DEP issued another NOV to Defendant for the violations observed on inspection.

38. By August 2017, Defendant had not remedied the violations.

39. On or around August 25, 2017, DEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") to Defendant.

40. The AONOCAPA cited multiple violations, including the repeated and continued exposure of food waste materials to stormwater and the discharge of red liquid material through the storm drain and stormwater basin, ordered Defendant to comply with the Act and the Permit, and assessed a \$90,000 civil administrative penalty.

41. On or around September 12, 2017, DEP conducted another inspection of the Site. The DEP inspector again observed food waste (source material) stored uncovered in the Site parking area.

42. DEP issued another NOV on or around September 12, 2017, for the violations observed during its inspection.

43. On September 18, 2017, Defendant responded to the August 25, 2017 AONOCAPA and timely requested an administrative hearing. DEP granted the hearing request on January 19, 2018. The AONOCAPA was not forwarded to the Office of Administrative Law.

44. On or around June 21, 2019, the Department conducted another compliance evaluation at the Site.

45. The DEP inspector observed several violations of the Act and the Permit, including failure to eliminate the exposure of food waste materials to stormwater.

46. DEP issued another NOV on July 1, 2019, for the violations observed on June 21, 2019.

47. On or around November 8, 2019, DEP conducted yet another compliance evaluation at the Site.

48. The DEP inspector observed that Defendant was still storing food waste material in uncovered piles, that Defendant had failed to remove food waste material from its retention pond, and that a brown fluid ran through the stormwater trough that discharges into Penhorn Creek.

49. On or around November 8, 2019, DEP issued another NOV for the observed violations.

50. On or around April 21, 2020, the DEP inspector again observed uncovered food waste scattered in the parking areas at the Site.

51. The inspector also observed that Defendant had not cleaned the stormwater retention pond, which had collected discharged material for at least two years.

52. On or around June 12, 2020, DEP conducted another compliance evaluation at the Site. The DEP inspector observed

food waste material stored uncovered and a yellowish liquid running off into a storm drain.

53. On July 14, 2020, DEP issued a NOV for the violations observed on June 12, 2020.

54. On August 24, 2020, DEP conducted another compliance evaluation at the Site. The DEP inspector observed a breach along the bottom of the wall of a building used to store feed, through which food waste leachate seeped out and ultimately discharged into a storm drain.

55. On October 8, 2020, DEP issued another NOV for the violations observed on August 24, 2020.

56. On February 8, 2021, DEP conducted another compliance evaluation at the Site. The DEP inspector observed a grayish-brown frozen material present in and around the stormwater drain in the middle of the property, a container with food material discharging liquid onto the ground, and the continued presence of food-waste material in the stormwater retention pond.

57. On February 22, 2021, DEP issued another NOV for the violations observed on February 8, 2021.

58. To date, DEP has issued eight NOVs related to Defendant's violations of the Act and noncompliance with the requirements of its Permit.

COUNT I

Violations of the Water Pollution Control Act

59. Plaintiffs repeat each allegation of the preceding paragraphs as if set forth fully herein.

60. Defendant is a "person" within the meaning of the Act, N.J.S.A. 58:10A-3.

61. The unauthorized discharge of pollutants is a violation of the Act for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6(a).

62. It is unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by DEP, as stated in the New Jersey Pollutant Discharge Elimination System rules. N.J.A.C. 7:14A-2.1.

63. Defendant's Permit requires no exposure of source materials to stormwater.

64. The Permit requires that "[e]very facility authorized under this permit shall eliminate the exposure of source materials and/or industrial activity to stormwater discharges" through application of a Stormwater Pollution Prevention Plan.

65. Defendant has repeatedly failed to eliminate the exposure of source materials to stormwater discharges and otherwise failed to comply with the conditions of the Permit, as detailed herein.

66. Failure to comply with the Permit's conditions is a violation of the Act. N.J.S.A. 58:10A-6(a); N.J.A.C. 7:14A-2.1.

67. Defendant has repeatedly violated the conditions of the Permit and the Act.

68. Upon information and belief, Defendant's improper storage practices, including the storing of source materials in open-air piles and unsealed containers exposed to stormwater, conferred economic benefits upon Defendant. These benefits include but are not limited to, savings realized from avoided capital or noncapital costs necessary to eliminate the exposure of source materials to stormwater, the return earned or that may be earned on the amount of avoided costs, and benefits accruing as a result of a competitive market advantage enjoyed by reason of Defendant's improper storage practices that allow for the unpermitted exposure of source materials to stormwater.

69. Plaintiffs have incurred, and will incur, costs and damages because of the discharge of pollutants at the Site.

70. The costs and damages Plaintiffs have incurred, and will incur, for the Site are recoverable under the Act, N.J.S.A. 58:10A-10(c)(2)-(4).

71. Any person who violates the Act shall be subject upon order of a court to a civil penalty not to exceed \$50,000.00 per day of such violation, and each day's continuance of the violation

shall constitute a separate violation the Act. N.J.S.A. 58:10A-10(e).

72. Pursuant to the Act, Plaintiffs may seek injunctive relief, N.J.S.A. 58:10A-10c(1); costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10(c)(2); costs incurred by the State in removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10(c)(3); compensatory damages for any loss or destruction of wildlife, fish or aquatic life, or other natural resources, and for any other actual damages caused by an unauthorized discharge, N.J.S.A. 58:10A-10(c)(4); and the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10(c)(5).

WHEREFORE, Plaintiffs demand judgment:

- a. Ordering Defendant to remove, correct, and/or terminate the adverse effect upon water quality resulting from any

unauthorized discharge of pollutants in accordance with their NJPDES Permit, by taking actions including but not limited to, storing all source materials in a manner that prevents any exposure to stormwater, removing all food waste materials from the on-site stormwater retention pond, and keeping all equipment that is used in the storage and transportation process free of residual food waste;

- b. Ordering Defendant to reimburse the reasonable costs for any investigation, inspection, or monitoring survey, which led to establishment of the violation, including the costs of preparing and litigating the case;
- c. Ordering Defendant to reimburse all reasonable costs that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violations, including the costs of preparing and litigating the case;
- d. Ordering Defendant to reimburse all reasonable costs that will be incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Site;
- e. Awarding Plaintiffs their costs and fees in this action;

- f. Ordering Defendant to pay a civil penalty pursuant to the Act, N.J.S.A. 58:10A-10(e).
- g. Awarding Plaintiffs such other relief as this Court deems appropriate; and
- h. Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Site. Reserving the right to bring a claim in the future for any economic benefits that have or will accrue to Defendant, including any savings to be realized from avoided capital or noncapital costs, the return to be earned on the amount of avoided costs, any benefits that will accrue as a result of a competitive market advantage Defendant enjoyed, or any other benefit that will accrue as a result of having violated the Act pursuant to N.J.S.A. 58:10A-10(c)(5).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated:

By:

Daniel P. Resler
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Daniel P. Resler, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to Plaintiffs at this time, nor is any non-party known to Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated:

By:

Daniel P. Resler
Deputy Attorney General

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(C)

Undersigned counsel further certifies that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated:

By:

Daniel P. Resler
Deputy Attorney General

Exhibit 14

STATEMENT OF THE CASE

1. Wilenta Feed, a food waste recycling business in Secaucus, New Jersey ("Site"), repeatedly has caused pollutants from its operation to run off into the storm sewer system and, ultimately, to New Jersey's surface waters in violation of the Water Pollution Control Act ("Act"), N.J.S.A. 58:10A-1 to -35, and the terms of Defendant's permit despite the Department's numerous administrative efforts to secure Defendant's compliance.

2. Wilenta Feed's business involves converting food waste, largely bakery products, into animal feed or animal feed ingredients.

3. Wilenta Feed received a New Jersey Pollutant Discharge Elimination System ("NJPDES") basic industrial stormwater permit on January 8, 2013. The terms of Defendant's permit prohibit Defendant from exposing food waste, by-products, and industrial activities to stormwater discharges.

4. Despite this prohibition, DEP has observed and documented numerous occasions of Defendant's improper storage practices, including the storing of materials in open-air piles and unsealed containers exposed to stormwater, causing pollutants ~~to run off into the storm sewer system and, ultimately, to New~~ Jersey's surface waters including Penhorn Creek, a tributary to the Hackensack River.

5. The introduction of food waste-related pollutants to surface water bodies can significantly decrease dissolved oxygen levels of the water. This decrease in dissolved oxygen levels can cause stress, asphyxiation, and death in aquatic life. Such harm to aquatic life, in turn reduces opportunities for recreation and enjoyment of these waterways by New Jersey residents and visitors.

6. DEP issued numerous warnings and Notices of Violation ("NOV") in an effort to bring Wilenta Feed into compliance with the terms of its permit and the Act and to prevent further stormwater pollution.

7. The community surrounding the Site has a significant low-income, minority population. Historically, across New Jersey, such communities have been disproportionately exposed to high-polluting facilities and to the resultant threats of high levels of air, water, and soil pollution, and accompanying potential for increased public health impacts.

8. Residents of all communities should receive fair and equitable treatment in matters affecting their environment, community, homes, and health without regard to a community's socio-economic condition. See, e.g., Exec. Order No. 23 (April 20, 2018), 50 N.J.R. 1241(b) (May 21, 2018) and Environmental Justice Law, N.J.S.A. 13:1D-157 to 161.

9. The Department now brings this suit against Wilenta Feed (1) to compel the company to cease the pollution caused by exposure

of food wastes to stormwater at the Site; (2) to recover the costs the Department has incurred and will incur to remove, correct, and/or terminate any adverse effects on surface water quality resulting from the unauthorized discharges; (3) to impose civil statutory penalties; and (4) for other related relief.

PARTIES

10. Plaintiff DEP is a principal department in the executive branch of the State. DEP maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey. Pursuant to the authority vested in the DEP by the aforementioned statutes to protect human health and the environment, DEP is empowered to compel parties to remediate contamination and to bring proceedings in Superior Court.

11. Plaintiff Shawn LaTourette, Commissioner of DEP, is vested with various powers and authority, including those conferred by the DEP's enabling legislation, N.J.S.A. 13:1D-1 to -19. The Commissioner is authorized by law to commence a civil action in Superior Court for appropriate relief for any violation of the Act. N.J.S.A. 58:10A-10.c.

12. Defendant Wilenta Feed is a New Jersey corporation. Its principal address is 46 Henry Street, Secaucus, Hudson County, New Jersey.

13. "XYZ Corporations" 1-10, these names being fictitious, are entities with identities that cannot be ascertained as of the

filing of this Complaint, certain of which are corporate successors to, predecessors of, insurers of, or are otherwise related to, Defendant.

14. "John and/or Jane Does" 1-10, these names being fictitious, are natural individuals whose identities cannot be ascertained as of the filing of this Complaint, certain of whom are partners, officers, directors, and/or responsible corporate officials of, or are otherwise related to, Defendant and/or one or more of the XYZ Corporation defendants.

FACTUAL ALLEGATIONS

15. The Site, located at 46 Henry Street, Secaucus, Hudson County, New Jersey, is designated as Block 50, Lot 5, on the City of Secaucus tax map.

16. DEP has assigned the Site Water Quality Program Interest ("PI") Number 130633.

17. Defendant operates a food waste recycling business at the Site and, upon information and belief, has operated the business since at least 2006. Defendant's business involves the receipt and storage of food waste, largely bakery products, and the conversion of that food waste into animal feed or animal feed ingredients.

18. Defendant applied for and was issued a NJPDES Basic Industrial Stormwater General Permit, designated as NJG0140325 ("Permit"), on January 8, 2013.

19. The Permit took effect on February 1, 2013, and was renewed on February 1, 2018.

20. The Permit requires Defendant to manage stormwater discharges from the Site. Specifically, the Permit requires Defendant to prevent source materials and/or industrial activity from being exposed to stormwater discharges.

21. The Permit defines "source materials" to include raw materials, intermediate products, final products, waste materials, by-products, industrial machinery, and fuels, lubricants, solvents, and detergents located at the Site that are directly or indirectly related to Defendant's industrial activity and could be a source of pollutants in industrial stormwater discharge.

22. Food waste materials and sawdust are "source materials" under the Permit.

23. The Permit defines "industrial activity" to include manufacturing, processing, disposing, storing, loading and unloading, transporting or conveying any raw material, intermediate product, final product, by-product, waste product, or equipment. "Industrial activity" also includes the treatment of a by-product or waste product and/or the maintenance of equipment associated with the regulated activity.

24. The storage and recycling of food wastes into animal feed are industrial activities as defined in the Permit.

25. On or around June 19, 2017, DEP received a report of trash and debris covering the driveway at the Site, running off into the public street.

26. On or around June 20, 2017, a Hudson Regional Health Commission ("HRHC") representative investigated the Site and discovered that large amounts of food waste material were being stored in the Site's asphalt parking lot with no cover.

27. The HRHC representative observed a red liquid running from the food waste (source material) into a stormwater basin at the Site.

28. On or around June 21, 2017, DEP conducted an inspection of the Site. The DEP inspector observed the piles of food waste stored uncovered in Defendant's parking lot.

29. The DEP inspector also observed the red liquid running from the food waste into a storm drain at the Site.

30. The discharge of red liquid was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the Act's regulations, including, N.J.A.C. 7:14A-2.1(d).

31. Upon information and belief, the red liquid running from the food waste into a storm drain at the Site resulted from Defendant's failure to eliminate exposure of source material and industrial activity to stormwater in violation of Part I, Section D.1(a) of the Permit.

32. DEP issued a NOV to Defendant on June 21, 2017. In response to the NOV, Defendant claimed through their consultant George C. Cascino in a letter received by DEP on June 23, 2017 that the mill to which they usually shipped their processed materials was temporarily out of service, causing a buildup of excess materials, and that the circumstances giving rise to the violations would be promptly resolved.

33. On or around June 22, 23, and 26 and July 6, 2017, DEP conducted follow-up inspections at the Site. Each of these inspections revealed that piles of food waste and sawdust continued to be stored uncovered in the parking area at the Site. DEP also observed that the red liquid continued to run from the source material into a stormwater basin at the Site.

34. On or around July 6, 2017, a DEP inspector also observed a yellow-gray material in the storm drain at the Site, as well as in the stormwater basin.

35. The discharge of yellow-gray material was an unauthorized discharge of a pollutant into the waters of the State via the stormwater basin in violation of the Act. N.J.A.C 7:14A-2.1(d).

36. Upon information and belief, the yellow-gray material observed in the storm drain and in the stormwater basin at the Site was the result of Defendant's failure to eliminate exposure

of source material and industrial activity to stormwater in violation of Part I, Section D.1(a) of the Permit.

37. On or around July 6, 2017, DEP issued another NOV to Defendant for the violations observed on inspection.

38. On or around August 25, 2017, DEP issued an Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") to Defendant. This AONOCAPA was voluntarily rescinded without prejudice by DEP on July 5, 2022.

39. On or around September 12, 2017, DEP conducted another inspection of the Site. The DEP inspector again observed food waste (source material) stored uncovered in the Site parking area.

40. DEP issued another NOV on or around September 12, 2017, for the violations observed during its inspection.

41. On June 14, 2018, DEP conducted another inspection of the Site.

42. The DEP inspector observed an odorous black material that appeared to be decomposed source materials present in the on-site stormwater detention pond and in contact with stormwater runoff. Additionally, the inspector observed source materials in various storage containers and on a vehicle stored outside and exposed to stormwater.

43. DEP issued another NOV on June 28, 2018, for the violations observed on June 14, 2018.

44. On or around June 21, 2019, the Department conducted another compliance evaluation at the Site.

45. The DEP inspector observed several violations of the Act and the Permit, including failure to eliminate the exposure of food waste materials to stormwater.

46. DEP issued another NOV on July 1, 2019, for the violations observed on June 21, 2019.

47. On or around November 8, 2019, DEP conducted yet another compliance evaluation at the Site.

48. The DEP inspector observed that Defendant was still storing food waste material in uncovered piles, that Defendant had failed to remove food waste material from its retention pond, and that a brown fluid ran through the stormwater trough that discharges into Penhorn Creek.

49. On or around November 8, 2019, DEP issued another NOV for the observed violations.

50. On or around April 21, 2020, the DEP inspector again observed uncovered food waste scattered in the parking areas at the Site.

51. The inspector also observed that Defendant had not cleaned ~~the stormwater~~ retention pond, which had collected discharged material for at least two years.

52. On or around June 12, 2020, DEP conducted another compliance evaluation at the Site. The DEP inspector observed

food waste material stored uncovered and a yellowish liquid running off into a storm drain.

53. On July 14, 2020, DEP issued a NOV for the violations observed on June 12, 2020.

54. On August 24, 2020, DEP conducted another compliance evaluation at the Site. The DEP inspector observed a breach along the bottom of the wall of a building used to store feed, through which food waste leachate seeped out and ultimately discharged into a storm drain.

55. On October 8, 2020, DEP issued another NOV for the violations observed on August 24, 2020.

56. On February 8, 2021, DEP conducted another compliance evaluation at the Site. The DEP inspector observed a grayish-brown frozen material present in and around the stormwater drain in the middle of the property, a container with food material discharging liquid onto the ground, and the continued presence of food-waste material in the stormwater retention pond.

57. On February 22, 2021, DEP issued another NOV for the violations observed on February 8, 2021.

58. In total, DEP has documented fourteen days between June 21, 2017 and February 8, 2021 where Defendant was observed to be out of compliance with the Act and the requirements of its Permit.

COUNT I

Violations of the Water Pollution Control Act

59. Plaintiffs repeat each allegation of the preceding paragraphs as if set forth fully herein.

60. Defendant is a "person" within the meaning of the Act, N.J.S.A. 58:10A-3.

61. The unauthorized discharge of pollutants is a violation of the Act for which any person who is the discharger is strictly liable, without regard to fault. N.J.S.A. 58:10A-6(a).

62. It is unlawful for any person to discharge any pollutant except in conformity with a valid NJPDES permit issued by DEP, as stated in the New Jersey Pollutant Discharge Elimination System rules. N.J.A.C. 7:14A-2.1.

63. Defendant's Permit requires no exposure of source materials to stormwater.

64. The Permit requires that "[e]very facility authorized under this permit shall eliminate the exposure of source materials and/or industrial activity to stormwater discharges" through application of a Stormwater Pollution Prevention Plan.

65. Defendant has repeatedly failed to eliminate the ~~exposure of source materials to stormwater discharges and~~ otherwise failed to comply with the conditions of the Permit, as detailed herein.

66. Failure to comply with the Permit's conditions is a violation of the Act. N.J.S.A. 58:10A-6(a); N.J.A.C. 7:14A-2.1.

67. Defendant has repeatedly violated the conditions of the Permit and the Act.

68. Upon information and belief, Defendant's improper storage practices, including the storing of source materials in open-air piles and unsealed containers exposed to stormwater, conferred economic benefits upon Defendant. These benefits include but are not limited to, savings realized from avoided capital or noncapital costs necessary to eliminate the exposure of source materials to stormwater, the return earned or that may be earned on the amount of avoided costs, and benefits accruing as a result of a competitive market advantage enjoyed by reason of Defendant's improper storage practices that allow for the unpermitted exposure of source materials to stormwater.

69. Plaintiffs have incurred, and will incur, costs and damages because of the discharge of pollutants at the Site.

70. The costs and damages Plaintiffs have incurred, and will incur, for the Site are recoverable under the Act, N.J.S.A. 58:10A-10(c)(2)-(4).

71. Any person who violates the Act shall be subject upon order of a court to a civil penalty not to exceed \$50,000.00 per day of such violation, and each day's continuance of the violation

shall constitute a separate violation the Act. N.J.S.A. 58:10A-10(e).

72. Pursuant to the Act, Plaintiffs may seek injunctive relief, N.J.S.A. 58:10A-10c(1); costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, including the costs of preparing and litigating the case, N.J.S.A. 58:10A-10(c)(2); costs incurred by the State in removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants for which action under this subsection may have been brought, N.J.S.A. 58:10A-10(c)(3); compensatory damages for any loss or destruction of wildlife, fish or aquatic life, or other natural resources, and for any other actual damages caused by an unauthorized discharge, N.J.S.A. 58:10A-10(c)(4); and the actual amount of any economic benefits accruing to the violator from any violation, including savings realized from avoided capital or noncapital costs resulting from the violation, the return earned or that may be earned on the amount of avoided costs, any benefits accruing as a result of a competitive market advantage enjoyed by reason of the violation, or any other benefit resulting from the violation, N.J.S.A. 58:10A-10(c)(5).

WHEREFORE, Plaintiffs demand judgment:

- a. Ordering Defendant to remove, correct, and/or terminate the adverse effect upon water quality resulting from any

unauthorized discharge of pollutants in accordance with their NJPDES Permit, by taking actions including but not limited to, storing all source materials in a manner that prevents any exposure to stormwater, removing all food waste materials from the on-site stormwater retention pond, and keeping all equipment that is used in the storage and transportation process free of residual food waste;

- b. Ordering Defendant to reimburse the reasonable costs for any investigation, inspection, or monitoring survey, which led to establishment of the violation, including the costs of preparing and litigating the case;
- c. Ordering Defendant to reimburse all reasonable costs that will be incurred for any investigation, inspection, or monitoring survey, which led, or will lead, to establishment of the violations, including the costs of preparing and litigating the case;
- d. Ordering Defendant to reimburse all reasonable costs that will be incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Site;
- e. Awarding Plaintiffs their costs and fees in this action;

- f. Ordering Defendant to pay a civil penalty pursuant to the Act, N.J.S.A. 58:10A-10(e).
- g. Awarding Plaintiffs such other relief as this Court deems appropriate; and
- h. Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Site. Reserving the right to bring a claim in the future for any economic benefits that have or will accrue to Defendant, including any savings to be realized from avoided capital or noncapital costs, the return to be earned on the amount of avoided costs, any benefits that will accrue as a result of a competitive market advantage Defendant enjoyed, or any other benefit that will accrue as a result of having violated the Act pursuant to N.J.S.A. 58:10A-10(c)(5).

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated: 07/05/2022

By:



Daniel P. Resler
Deputy Attorney General

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Daniel P. Resler, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES

Undersigned counsel hereby certifies, in accordance with R. 4:5-1(b)(2), that the matters in controversy in this action are not the subject of any other pending or contemplated action in any court or arbitration proceeding known to Plaintiffs at this time, nor is any non-party known to Plaintiffs at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such non-party later becomes known to Plaintiffs, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated: 07/05/2022

By:


Daniel P. Resler
Deputy Attorney General

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(C)

Undersigned counsel further certifies that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

Dated: 07/05/2022

By:



Daniel P. Resler
Deputy Attorney General

Exhibit 15

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 093
Trenton, New Jersey 08625-0093
Attorney for Plaintiffs

Filed
November 29, 2022
Jeffrey R. Jablonski, A.J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
DOCKET NO. HUD-L-001886-21

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION and SHAWN LATOURETTE, COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION	:	
Plaintiffs,	:	
v.	:	
WILENTA FEED, INC.; "XYZ CORPORATIONS" 1-10; and "JOHN AND/OR JANE DOES" 1-10,	:	CONSENT JUDGEMENT
Defendants.	:	

This matter was opened to the Court by the Acting Attorney General of New Jersey, attorney for plaintiffs the New Jersey Department of Environmental Protection ("DEP" or the "Department") and the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner") (together, "Plaintiffs"), Daniel Resler, Deputy Attorney General, appearing; and Richard Vuernick, Esq., attorney for Defendant

Wilenta Feed, Inc. ("Settling Defendant"). Plaintiffs and the Settling Defendant (together, the "Parties") having amicably resolved their dispute before trial, the parties hereby agree to the terms and the entry of this Stipulation of Settlement and Judicial Consent Order (the "Consent Judgment" or "JCO"),

IT IS STIPULATED AND AGREED, as follows:

I. BACKGROUND

1. On May 7, 2021 the Plaintiffs initiated this action by filing a complaint against the Settling Defendant, alongside additional defendants "XYZ Corporations" and "XYZ John and/or Jane Does", names being fictitious, pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 to -35 ("Act").

2. A first amended complaint ("Amended Complaint") was subsequently filed on July 5, 2022 pursuant to the Act.

3. The property that is the subject matter of the Complaint is located at 46 Henry Street, Secaucus, Hudson County, New Jersey, and designated as Block 50, Lot 5 on the City of Secaucus Tax Map ("Site").

4. Plaintiffs, in their Amended Complaint, seek from the Settling Defendant: (1) injunctive relief to remove, correct, and/or terminate the adverse effect upon water quality resulting from any unauthorized discharge of pollutants in accordance with the Settling Defendant's New Jersey Pollutant Discharge

Elimination System ("NJPDDES") Permit, (2) all reasonable costs incurred for any investigation that led to establishment of the violation, including the costs of preparing and litigating the case, (3) all reasonable costs that will be incurred for any investigation which will lead to establishment of the violations including the costs of preparing and litigating the case, (4) all reasonable costs that will be incurred for removing, correcting, or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants at the Site, (5) the costs and fees of this action, and (6) all appropriate civil penalties pursuant to the Act and all applicable laws and regulations. The Settling Defendant has not yet filed a responsive pleading.

5. The Parties to this Consent Judgment recognize, and this Court by entering this Consent Judgment finds, that the Parties to this Consent Judgment have negotiated this Consent Judgment in good faith; that the implementation of this Consent Judgment will avoid continued, prolonged and complicated litigation; and that this Consent Judgment is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Consent Judgment, it is hereby **ORDERED** and **ADJUDGED**:

II. JURISDICTION

6. This Court has jurisdiction over the subject matter of this action pursuant to the Act. This Court also has personal jurisdiction over the Parties to this Consent Judgment for the purposes of implementing this Consent Judgment and resolving the underlying litigation.

7. The Parties to this Consent Judgment waive all objections and defenses they may have to the jurisdiction of this Court, or to venue in this County. The Parties shall not challenge the Court's jurisdiction to enforce this Consent Judgment.

III. PARTIES BOUND

8. This Consent Judgment applies to, and is binding upon, the Plaintiffs and the Settling Defendant.

IV. DEFINITIONS

9. Unless otherwise expressly provided, terms used in this Consent Judgment that are defined in the Act, or in the regulations promulgated under the Act, shall have their statutory or regulatory meaning.

V. PARTIES' OBJECTIVES

10. The Parties' objectives in entering into this Consent Judgment are to protect public health and safety and the environment by requiring Settling Defendant to take specified

actions to come into compliance with the Act and the Settling Defendant's NJPDES Permit in addition to paying a civil penalty, and in return, Plaintiffs agree to dismiss this action against the Settling Defendant with prejudice; thereby resolving all of Plaintiffs' claims brought in this action against the Settling Defendant concerning the Site.

VI. SETTLING DEFENDANT'S COMMITMENTS

11. Settling Defendant covenants not to oppose entry of this Consent Judgment by this Court, or to challenge any provision of this Consent Judgment, except that Settling Defendant may contest Plaintiffs' interpretation or application of such terms in any action brought by Plaintiffs to enforce this JCO's provisions.

12. Settling Defendant agrees to pay a civil penalty of \$140,000.00 (one hundred-forty thousand U.S. dollars).

13. Settling Defendant may pay this civil penalty in sixteen (16) quarterly installments to be paid on January 15, April 15, July 15, and October 15 of each year until the entire penalty is paid. Each quarterly installment will pay \$8,750 of the principal as well as the entirety of the accrued interest for that period. The Department shall provide Settling Defendant with invoices evidencing this payment schedule. Payments shall be made by checks made payable to the "Treasurer,

State of New Jersey," and shall be sent with the appropriate invoice to the New Jersey Department of the Treasury at the address indicated on the payment invoice. Unless the Department states otherwise on any payment invoice, the payment schedule shall follow the below chart.

<u>Date Due</u>	<u>Principal Due</u>	<u>Interest Due</u>	<u>Total Due</u>	<u>Remaining Principal</u>
01/15/2023	\$8,750.00	\$0	\$8,750.00	\$131,250.00
04/15/2023	\$8,750.00	\$738.28	\$9,488.28	\$122,500.00
07/15/2023	\$8,750.00	\$689.06	\$9,439.06	\$113,750.00
10/15/2023	\$8,750.00	\$639.84	\$9,389.84	\$105,000.00
01/15/2024	\$8,750.00	\$590.63	\$9,340.63	\$96,250.00
04/15/2024	\$8,750.00	\$541.41	\$9,291.41	\$87,500.00
07/15/2024	\$8,750.00	\$492.19	\$9,242.19	\$78,750.00
10/15/2024	\$8,750.00	\$442.97	\$9,192.97	\$70,000.00
01/15/2025	\$8,750.00	\$393.75	\$9,143.75	\$61,250.00
04/15/2025	\$8,750.00	\$344.53	\$9,094.53	\$52,500.00
07/15/2025	\$8,750.00	\$295.31	\$9,045.31	\$43,750.00

10/15/2025	\$8,750.00	\$246.09	\$8,996.09	\$35,000.00
01/15/2026	\$8,750.00	\$196.88	\$8,946.88	\$26,250.00
04/15/2026	\$8,750.00	\$147.66	\$8,897.66	\$17,500.00
07/15/2026	\$8,750.00	\$98.44	\$8,848.44	\$8,750.00
10/15/2026	\$8,750.00	\$49.22	\$8,799.22	\$0.00

14. Interest shall be applied to the amount due at a rate of 2.25% per year in accordance with R. 4:42-11(a)(3) beginning on the date of the first payment becoming due.

15. At the point of any payment being due and oweable, Settling Defendant may choose to prepay the entire remaining principal balance along with any interest oweable for the current pay period in order to fully resolve the civil penalty.

16. If Settling Defendant fails to pay the above penalty in accordance with the terms of this JCO, then the remainder of the \$140,000 principal, plus any accrued interest shall be immediately due and owing. Plaintiffs may bring a summary action in the Superior Court to collect such penalty pursuant to

R. 4:46-6, or file this JCO as a judgment under the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

17. Settling Defendant agrees to take any and all actions necessary to be in compliance with the Act and Settling Defendant's current NJPDES General Permit for as long as that permit remains active. In addition to any other necessary actions to ensure compliance, Settling Defendant agrees to the following.

a. Settling Defendant agrees to submit an updated Stormwater Pollution Prevention Plan ("SPPP") within 45 days of the effective date of this Consent Judgment. This SPPP shall include, but not be limited to:

(1) A commitment to expeditiously repair and maintain the walls of the building at the Site such that all source materials, industrial activity, and potential wastewater are contained within and do not leave the building.

(2) A commitment to mechanically sweeping the parking lot at the Site daily during days of facility operation.

(3) A commitment to pump out the stormceptor on a monthly basis as necessary.

(4) A commitment to steam clean the stormceptor quarterly as necessary, capturing any wastewater from this process for proper disposal.

(5) A commitment to clean out any sediment or other accumulated material from the Site's sediment basin semi-annually as necessary.

(6) A commitment that all incoming or outgoing source materials will be stored indoors and will not be stored or deposited in any manner that will expose those materials to stormwater. A further commitment that all stormwater is treated downstream by the sediment basin and stormceptor.

b. Settling Defendant agrees to dredge and cleanup any accrued residue or waste material located in, the sediment basin at the Site for proper disposal within 30 days of the effective date of this Consent Judgment.

18. Settling Defendant additionally agrees to apply for an individual NJPDES Permit from DEP within 30 days of the effective date of this Consent Judgment. If such individual NJPDES Permit is approved, compliance with that individual permit shall be required in lieu of the commitments of paragraph 17 above to the extent they differ.

19. If Settling Defendant fails to pay the above penalty or take the required compliance actions in accordance with the terms and conditions of this JCO, then Plaintiffs may take additional enforcement actions as it deems appropriate.

VII. PLAINTIFFS' COMMITMENTS

20. In consideration of Settling Defendant's agreed upon actions, Plaintiffs agree to dismiss this action against the Settling Defendant with prejudice. Plaintiffs also agree to take no further enforcement action pertaining to a Notice of Violation dated May 2, 2022 that was issued to Settling Defendant. Plaintiffs will retain the right to enforce the terms of this agreement.

21. The release contained in Paragraph 20 above extends only to Settling Defendant and not to any other person or entity.

VIII. PLAINTIFFS' RESERVATIONS

22. Subject to the provisions of this Consent Judgment, the Plaintiffs retain all authority, and reserve all rights, to undertake any enforcement action or remediation authorized by law concerning the Site.

22. The release contained in Paragraph 20 above does not pertain to any matters other than those expressly stated. The Plaintiffs reserve, and this Consent Judgment is without

prejudice to, all rights against the Settling Defendant concerning all other matters.

IX. FINDINGS & ADMISSIONS OF LIABILITY

23. Nothing contained in this Consent Judgment shall be considered an admission by the Settling Defendant, or a finding by the Plaintiffs, of any wrongdoing or liability on the Settling Defendant's part for anything the Plaintiffs have alleged in this action.

X. FORCE MAJEURE

24. If any event occurs that is beyond the control of Defendants and which Defendants believe may or will cause delay in the achievement of the compliance requirements of this JCO, Defendants shall notify the Department in writing within seven (7) calendar days of becoming aware of the delay or anticipated delay, as appropriate. In the notification, Defendants shall reference this paragraph, describe the anticipated length of the delay, and any measures taken or to be taken to minimize the delay. Defendants shall take all necessary action to prevent or minimize any such delay.

25. The Department may, at its sole discretion, extend the deadlines in the preceding paragraphs of this JCO for a period no longer than the delay if the Department finds that:

A. Defendants have complied with the notice requirements of the preceding paragraph;

B. any delay or anticipated delay has been or will be caused by fire, flood, riot, strike, or other circumstances beyond the control of Defendants; and

C. Defendants have taken all necessary actions to prevent or minimize the delay.

XI. GENERAL PROVISIONS

26. The Plaintiffs enter into this Consent Judgment pursuant to the police powers of the State of New Jersey for the enforcement of the laws of the State and the protection of the public health and safety and the environment. All obligations imposed upon the Settling Defendant by this Consent Judgment are continuing regulatory obligations pursuant to these police powers.

27. This JCO does not relieve Defendants from obtaining and complying with all applicable federal, state and local permits as well as applicable statutes, codes, rules, regulations, and orders.

28. No modification or waiver of this JCO shall be valid except by written amendment duly executed by Settling Defendant and the Department, as approved by the Court, or by the

Department's written modification pursuant to the force majeure provisions herein.

29. Settling Defendant shall not construe any unwritten or informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Plaintiffs, as relieving Settling Defendant of its obligations under its permit(s), this JCO, or any applicable statutes, codes, rules, regulations, and orders.

30. Nothing in this JCO shall preclude Plaintiffs from taking enforcement action against Settling Defendant for matters not set forth in the findings of this JCO or the Notice of Violation dated May 2, 2022.

31. No obligations or penalties imposed by this JCO are intended to constitute debt(s) which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and the protection of public health, safety, welfare, and the environment.

32. Defendant shall give written notice of this JCO to any purchaser or successor in interest at least thirty (30) calendar days prior to the transfer of ownership or control of the property/facility subject to this JCO, and shall simultaneously notify the Department that such notice has been given. This

requirement shall be in addition to any other statutory or regulatory requirements arising from the transfer of ownership or control of Defendant's facility. In addition, the parties agree that any contract, lease, deed or any other agreement that Defendants enter into to convey the property/facility that is the subject of this JCO shall include a provision which states that the successor, assignee, tenant or purchaser has agreed to assume all compliance obligations imposed by this JCO. All obligations to comply with the above payment schedule shall remain with Settling Defendant.

33. Plaintiffs reserve all statutory and common law rights to require Settling Defendant to take additional actions if the Plaintiffs determine that such actions are necessary to protect public health, safety, welfare and the environment. Nothing in this JCO shall constitute a waiver of any statutory or common law right of the Plaintiffs to require such additional measures should the Plaintiffs determine that such measures are necessary.

34. Settling Defendant shall perform all work required by this JCO in accordance with prevailing professional standards.

35. This JCO shall be governed and interpreted under the laws of the State of New Jersey.

36. If any provision of this JCO is found invalid or unenforceable, the remainder of this JCO shall not be affected thereby and each provision shall be valid and enforced to the fullest extent permitted by law. Plaintiffs and Settling Defendant reserve the right to petition the Court to terminate the remainder of this JCO if, after such finding, it determines that the remaining JCO does not serve the purpose for which it was intended.

37. This JCO represents the entire integrated agreement between Plaintiffs and Settling Defendant on the matters contained herein.

XV. EFFECTIVE DATE

38. The effective date of this Consent Judgment shall be the date upon which this Consent Judgment is entered by the Court.

XVI. RETENTION OF JURISDICTION

39. This Court retains jurisdiction over both the subject matter of this Consent Judgment and the Parties for the duration of the performance of the terms and provisions of this Consent Judgment for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction, and relief as may be necessary or appropriate for the construction or modification of this Consent Judgment, or to effectuate or

enforce compliance with its terms, or to resolve disputes, including any appeal from an administrative determination of a dispute between the Parties.

XVII. MODIFICATION

40. Nothing in this Consent Judgment shall be deemed to alter the Court's power to enforce, supervise or approve modifications to this Consent Judgment.

XIX. ENTRY OF THIS CONSENT JUDGMENT

41. The Settling Defendant consents to the entry of this Consent Judgment without further notice.

42. If for any reason the Court should decline to approve this Consent Judgment in the form presented, this Consent Judgment is voidable at the sole discretion of any Party, and the terms of the Consent Judgment may not be used as evidence in any litigation between the Parties.

43. Plaintiffs hereby agree to dismiss this action against the Settling Defendant with prejudice.


XX. SIGNATORIES/SERVICE

44. Each undersigned representative of a Party to this Consent Judgment certifies that he or she is authorized to enter into the terms and conditions of this Consent Judgment, and to execute and legally bind such Party to this Consent Judgment.

45. This Consent Judgment may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Consent Judgment.

46. Settling Defendant shall identify on the attached signature pages, the name, address and telephone number of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Judgment. The Settling Defendant agrees to accept service in this manner, and to waive the formal service requirements set forth in R. 4:4-4, including service of a summons.

SO ORDERED this 29th day of November, 2022.

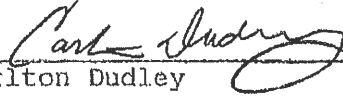

HON. JEFFREY R. JABLONSKI,
A.J.S.C.

NEW JERSEY DEPARTMENT OF

ENVIRONMENTAL PROTECTION

Dated: 11/25/22

By:

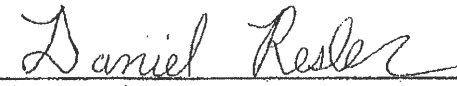


Carlton Dudley
Director, Division of Water
Enforcement

MATTHEW J. PLATKIN
ACTING ATTORNEY GENERAL OF NEW
JERSEY
Attorney for Plaintiffs

Dated: 11/22/22

By:

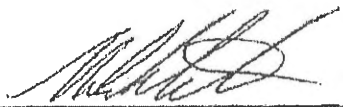


Daniel Resler
Deputy Attorney General

Wilenta Feed, Inc.

Dated: 11/21/22

By:



Michael Wilenta
Chief Operating Officer

Exhibit 16



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Mail Code - 501-02A

SHAWN M. LATOURETTE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

Bureau of NJPDES Stormwater Permitting and Water Quality Management
P.O. Box 420 – 501 E. State St., 1st Flr.
Trenton, NJ 08625-0420
Tel: (609) 633-7021 / Fax: (609) 777-0432
http://www.state.nj.us/dep/dwq/bnpc_home.htm

January 25, 2023

PETE WILENTA
WILENTA FEED INC
46 HENRY ST
SECAUCUS, NJ 07096-2596

Re: 5G2 -Basic Industrial Stormwater (GP)
NJPDES: NJG0140325 PI ID #: 130633
WILENTA FEED INC
Secaucus Town, Hudson

Dear Pete Wilenta:

The final renewal of the Basic Industrial Stormwater General Permit (general permit) identified above has been issued in accordance with N.J.A.C. 7:14A. A complete copy of the general permit, which is effective February 1, 2023 and expires on January 31, 2028, can be viewed on the internet at <https://www.nj.gov/dep/dwq/5g2.htm>.

During the public comment period, the Department did not receive any comments on the draft permit document. No changes from the draft action were made other than formatting changes to the final renewal.

As identified in the final renewal permit, Permittees shall submit all permit submittals electronically to Industrialstormwaterpermitting@dep.nj.gov or other Department designated electronic submission service.

If you have questions or comments regarding the final general permit action, please contact the Bureau of NJPDES Stormwater Permitting and Water Quality Management at (609) 633-7021.

Sincerely,

A handwritten signature in black ink, appearing to read "Eleanor Krukowski".

Eleanor Krukowski, Supervisor
Bureau of NJPDES Stormwater Permitting and Water Quality Management

Enclosures: (3)

1. Authorization to Discharge
2. Final NJPDES Basic Industrial Stormwater General Permit No. NJ0088315
3. 5G2 Certification Form

E-closures: (2)

1. Basic Industrial Stormwater General Permit Guidance Document at www.state.nj.us/dep/dwq/5g2.htm
2. Basic Industrial Stormwater General Permit Guidance Document – Marina Edition at www.state.nj.us/dep/dwq/5g2.htm

New Jersey Department of Environmental Protection



Mail Code - 501-02A
Bureau of NJPDES Stormwater Permitting and Water Quality Management
PO Box 420 - 501 E State St. 1st Flr.
Trenton, NJ 08625-0420
Phone: (609) 633-7021
Fax: (609) 777-0432

**AUTHORIZATION TO DISCHARGE
5G2 -Basic Industrial Stormwater (GP)**

Facility Name:

PI ID #: 130633

WILENTA FEED INC

Facility Address:

NJPDES #: NJG0140325

46 HENRY ST
SECAUCUS, NJ 07094

Annual Recertification Due: Apr - Jun

Type of Activity: Stormwater Discharge General Permit Authorization Renewal

Owner:

PW HENRY STREET ASSOC INC
46 HENRY ST
SECAUCUS, NJ 07094

Operating Entity:

WILENTA FEED INC
46 HENRY ST
SECAUCUS, NJ 07096-2596

Issuance Date:

Effective Date:

Expiration Date:

01/12/2023

02/01/2023

01/31/2028

Your Request for Authorization under NJPDES General Permit No. NJ0088315 has been approved by the New Jersey Department of Environmental Protection.

Date: 01/12/2023

Eleanor Krukowski, Supervisor
Bureau of NJPDES Stormwater Permitting and Water Quality Management
New Jersey Department of Environmental Protection

PART I

NARRATIVE REQUIREMENTS

Basic Industrial Stormwater (GP)

A. Permit Scope

1. Geographic Area

- a. The Basic Industrial Stormwater General Permit applies to all areas of the State of New Jersey.

2. Authorized Discharges

- a. The Basic Industrial Stormwater General Permit ("permit") authorizes:
 - i. Industrial stormwater discharges to the surface and/or ground waters of the State ("waters of the State") from facilities that can eliminate the exposure of source materials and/or industrial activity to stormwater discharges, as defined in Part 1.J.

B. Eligibility

1. Eligibility for Authorization

- a. This permit authorizes facilities with potential discharges of stormwater associated with industrial activity to waters of the State that can eliminate the exposure of source materials and/or industrial activity to stormwater discharges, except for the following:
 - i. Stormwater discharges subject to federal effluent guideline limitations for stormwater (see 40 CFR, Chapter I, Subchapter N);
 - ii. Stormwater discharges authorized under another New Jersey Pollutant Discharge Elimination System (NJPDES) Discharge to Surface Water (DSW) or Discharge to Ground Water (DGW) permit (including an expired permit), or combined with domestic wastewater or process wastewater prior to treatment;
 - iii. Stormwater discharges that require authorization under NJPDES Permit No. NJ0088323 (a separate general permit for stormwater discharges from certain construction activities);
 - iv. Stormwater discharges from facilities with active "sanitary landfills" as defined in N.J.A.C. 7:26-1.4 or hazardous waste landfills subject to N.J.A.C. 7:26G, unless those landfills have been closed in compliance with N.J.A.C. 7:26-2A.9 (the Solid Waste rules) or N.J.A.C. 7:26G (the Hazardous Waste rules), the appropriate certifications have been submitted in accordance with N.J.A.C. 7:26 or N.J.A.C. 7:26G, and the landfills are not disrupted in a manner that exposes solid waste to the stormwater discharge and/or the landfill is not disrupted. Such closed landfills are eligible for authorization under this permit; and
 - v. Stormwater discharges from projects or activities that conflict with an adopted WQM plan.
- b. Facilities which are not eligible for authorization under this permit should contact the Bureau of NJPDES Stormwater Permitting and Water Quality Management at (609) 633-7021 to discuss other permitting options.

C. General Conditions

1. Who Shall Submit Request for Authorization

- a. A separate Request for Authorization (RFA) shall be submitted using the Department's RFA form by each person who is an operating entity for any part of the facility requiring a NJPDES permit for their stormwater discharges associated with industrial activity.
 - i. The definition for "stormwater discharge associated with industrial activity" can be found at N.J.A.C. 7:14A-1.2. This definition lists the categories of facilities and the associated Standard Industrial Classification (SIC) Codes that are considered to be engaging in industrial activity and thus require a NJPDES permit for their stormwater discharges.
- b. When a facility is owned by one person but is currently operated by another person, the operating entity shall submit the RFA.
- c. Separate RFAs shall be submitted for separate facilities except for:
 - i. Facilities that have the same operating entity and are located on contiguous properties.

2. Contents of a Complete Request for Authorization

- a. NJPDES-1 Form;
- b. Supplemental Form; and
- c. Site Map depicting the mapping requirements in F.2. below.
- d. Additional information may be required by the Department to be included as part of the RFA if the Department determines that such additional information (including other data, reports, specifications, plans, permits, or other information) is reasonably necessary to determine whether to authorize the discharge under this permit.

3. Submitting a Request for Authorization

- a. A Request for Authorization shall be submitted electronically to DWQ_PAS@dep.nj.gov or other Department designated electronic submission service.
 - i. Permittees shall contact the Department at DWQ_PAS@dep.nj.gov if they have difficulty submitting a RFA electronically.
- b. After review of the RFA, the Department will either:
 - i. Issue authorization under this permit. The authorization is effective on the date the Department issues the Authorization to Discharge; or
 - ii. Deny authorization and require submittal of an application for an individual stormwater permit; or
 - iii. Deny authorization and require submittal of an RFA for another general permit.

4. Additional Notification

- a. Facilities that discharge industrial stormwater through a municipal separate storm sewer system shall also submit a copy of the completed RFA to the owner and/or operating entity of that system.

- b. Persons requesting authorization shall also submit a copy of the completed RFA to each owner (if any) of the facility who did not submit the RFA.

5. Deadline to Apply

- a. Pursuant to N.J.A.C. 7:14A-24.4, the deadline for requesting authorization under a stormwater general permit or applying for an individual NJPDES stormwater permit was April 1, 1993 (with limited exceptions) for any "stormwater discharge associated with industrial activity".
- b. The Department may accept an RFA submitted after the foregoing deadline; however the discharger is liable for violations that occurred prior to the submission of the RFA, including discharging without a permit.

6. Automatic Renewal

- a. Authorization under this permit will be automatically renewed when this permit is reissued as provided by N.J.A.C. 7:14A-6.13(d)9 so long as the discharge authorized under this permit continues to be eligible. The Department shall issue a notice of renewed authorization to the facility.
- b. If the facility is aware of any information in the most recently submitted RFA that is no longer true, accurate, and/or complete, the facility shall provide the correct information to the Department within ninety (90) days of the effective renewal authorization notice.

7. Extensions of Permit Deadlines

- a. The Department may grant up to a twelve (12) month extension to the deadline to implement the SPPP, if the facility submits a written request for such extension, at least thirty (30) days prior to the deadline, establishing to the Department's satisfaction that the Federal, State and local permits and approvals necessary for the construction of BMPs identified in the SPPP could not with due diligence be obtained within the time period set forth in the permit

8. Permit Transfer - Change of Owner or Operating Entity

- a. Authorization under this permit may be automatically transferred to a new owner or operator with an industrial stormwater discharge at the same physical location pursuant to N.J.A.C. 7:14A16.2(d) if the permittee provides written notice to the Department at least thirty (30) days prior to the proposed transfer date.
 - i. Permittees requesting a transfer of permit authorization should submit the Department's Application for Transfer of a NJPDES Permit.
- b. If a permittee is moving their operations to a new physical location, the permit may not be transferred. The permittee shall request a revocation for their existing permit authorization by submitting the Department's Request for Revocation form and submit a new RFA for their operations at the new location.
- c. The above mentioned forms are available on the Department's web site at https://www.state.nj.us/dep/dwq/forms_admin.htm.
- d. The above-mentioned forms shall be submitted electronically to DWQ_PAS@dep.nj.gov or other Department designated electronic submission service.

9. Other Permits

WILENTA FEED INC, Secaucus

Permit No.NJG0140325
DST230001 Stormwater Discharge General Permit Authorization
Renewal

- a. Compliance with the conditions of this permit does not exempt the permittee from any other applicable permit or other regulatory requirements including, but not limited to, all federal, State and local rules and regulations.

10. Other Laws

- a. In accordance with N.J.A.C. 7:14A-6.2(a)7, this permit does not authorize any infringement of State or local laws or regulations, including, but not limited to the Pinelands rules (N.J.A.C. 7:50), Discharge of Petroleum and other Hazardous Substances rules at N.J.A.C. 7:1E, and all other Department rules. No discharge of hazardous substances (as defined in N.J.A.C. 7:1E-1.6) resulting from an onsite spill shall be deemed to be "pursuant to and in compliance with this permit" within the meaning of the Spill Compensation and Control Act at N.J.S.A. 58:10-23.11c.

11. Discharge of Unauthorized Pollutants

- a. For stormwater discharges authorized by this permit, the permittee is exempt from N.J.A.C. 7:14A-6.2(a)2, which states that the discharge of any pollutant not specifically regulated in the NJPDES permit or listed and quantified in the NJPDES application or request for authorization, shall constitute a violation of the permit.

12. Operations and Maintenance Manual

- a. The facility is exempt from the requirement to prepare an operations and maintenance manual, required by N.J.A.C. 7:14A-6.12(c), for the discharge authorized by this permit.

13. Construction Activities

- a. This permit does not authorize the discharge of stormwater that is associated with construction activities (see subparagraph 1.x. of the definition of "stormwater discharge associated with industrial activity" and the definition of "stormwater discharge associated with small construction activity" in N.J.A.C. 7:14A-1.2). In general, this is the discharge of stormwater to surface water from construction activity that disturbs one or more acre(s). Any facility that operates a construction site with such a discharge shall submit a separate RFA or individual NJPDES DSW permit application for that discharge. A RFA submitted for the Basic Industrial Stormwater General Permit does not qualify as a RFA for such a discharge.
 - i. A separate RFA for stormwater discharges from construction activities (other than N.J. Department of Transportation construction activities) shall be submitted to the Department.
 - ii. If applying for an individual NJPDES DSW permit, submit the NJPDES 1 form, NJPDES Form RFC, and NJPDES Form R, Part A to the Department (see N.J.A.C. 7:14A-24.7).

14. Electronic Communications

- a. Processing Requests for Authorization, submitting permit requirements, and correspondence relating to authorizations under this general permit will be done electronically. The term "communications" means any notice, record, response or approval, or other type of information that is made available to you or received from you in connection with authorization under this general permit.

D. Summary of Permit Requirements

1. Eliminate Exposure

WILENTA FEED INC, Secaucus

Permit No.NJG0140325
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Renewal

- a. Every facility authorized under this permit shall eliminate the exposure of source materials and/or industrial activity to stormwater discharges as required in Part 1.E.
- 2. Prepare and Implement a Stormwater Pollution Prevention Plan (SPPP)**
 - a. Facilities being reauthorized as part of the automatic renewal shall update their SPPP to include all contents required in Part 1.F.
- 3. Conduct Annual Inspections**
 - a. Facilities shall conduct annual self-inspections, as required in Part 1.G, to ensure that they are in compliance with their SPPP and that their BMPs are effectively eliminating the exposure of source materials and/or industrial activity to stormwater discharges.
- 4. Submit Certifications**
 - a. SPPP Preparation and Implementation Certification
 - i. Facilities being reauthorized as part of the automatic renewal shall submit the Department's Certification Form, certifying that they have updated their SPPP with their Annual Certification as specified in Part 1.H.
 - b. Annual Certification
 - i. Annually, facilities shall submit the Department's Certification Form certifying that they have conducted an annual self-inspection and that they are in compliance with all permit conditions as required in Part 1.H.

E. Eliminate Exposure

- 1. SPPP General Requirements**
 - a. Every facility authorized under this permit shall eliminate the exposure of source materials and/or industrial activity to stormwater discharges through the preparation and implementation of a SPPP that includes the contents required in Part 1.F.
 - b. The SPPP shall accurately reflect and account for all facility operations that generate industrial stormwater discharges to the waters of the State.
 - c. The SPPP shall be signed, dated, and retained onsite and available for Department Inspection.
- 2. Amendments to the SPPP**
 - a. Changes to facility operations shall be reflected in the SPPP to ensure that the facility continues to eliminate the exposure of source materials and/or industrial activity to stormwater discharges.
 - b. Any amended SPPP shall be resigned, dated, and retained onsite and available for Department Inspection.
- 3. Obligation to Provide Copies and/or Allow Review of the SPPP**
 - a. The permittee shall provide a copy of the SPPP and the certifications required by the permit to the owner(s) of the facility.

- b. The permittee shall make the SPPP available or provide a copy upon request to the owner and/or operator of any municipal separate storm sewer system through which the industrial stormwater is discharged.
- c. The permittee shall make the SPPP available or provide a copy upon request to an authorized representative of the Department.
 - i. Upon review by an authorized representative, the Department may notify the permittee at any time that the SPPP does not meet one or more of the permit requirements.
 - ii. Within thirty (30) days after receiving such notification (unless otherwise specified by the Department), the SPPP shall be amended to adequately address all deficiencies.

F. Contents of a Stormwater Pollution Prevention Plan

1. Inventory Requirements

- a. Include a detailed description of all source materials used, stored, or otherwise located at the facility and all industrial activities conducted at the facility, including seasonal activities that are exposed to stormwater runoff.
- b. Include a list of any domestic sewage, non-contact cooling water, equipment and vehicle wash wastewater, or process wastewater (including but not limited to leachate, contact cooling water, pressure-wash wastewater, hydro-blasting wastewater, boat bottom wash wastewater, vehicle and equipment wash wastewater) other than stormwater, which is generated at the facility and discharged through separate storm sewers to surface waters, or discharges to ground water.
 - i. For discharges identified above, list any final or draft NJPDES permits, pending NJPDES permit applications, or pending requests for authorization under another general NJPDES permit (including the NJPDES permit number where available).
- c. Include a list of all other permit approvals issued by the NJDEP for the facility for the activities listed above (i.e. air, solid waste, land use, etc.).

2. Mapping Requirements

- a. Include a map (drawn to scale) of the entire facility that contains the following:
 - i. The property boundary;
 - ii. The location(s) of existing buildings and other permanent structures;
 - iii. All paved areas, including roads and access areas;
 - iv. Stormwater control features including but not limited to drainage patterns, stormwater conveyances (e.g. stormwater catch basins, downspouts [where there is industrial activity on the roof], overland flow, swales, ditches and channels, and storm sewer pipes), designed stormwater basins (e.g. infiltration, detention, retention) and the location of all stormwater discharge structures;
 - v. The location(s), if any, where sanitary sewage, non-contact cooling water, equipment and vehicle wash wastewater, or process wastewater (including but not limited to leachate, contact cooling water, pressure-wash wastewater, hydro-blasting wastewater, boat bottom wash wastewater, vehicle and equipment wash wastewater) generated by the facility enters a storm water conveyance that discharges to waters of the State; and

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- vi. The delineation of the areas regulated by this permit, including all source material storage areas and industrial activities conducted onsite.

3. Best Management Practices

- a. Include a list of the BMPs that are implemented at the facility in the areas regulated by this permit as identified in the mapping requirements in F.2 above to eliminate the exposure of source materials and/or industrial activity to stormwater discharges.

4. Maintenance Plan

- a. Include a plan that ensures regular, preventative maintenance and appropriate repairs, including replacement of all structural BMPs and the updating of non-structural BMPs such as Standard Operating Procedures (SOPs).

5. Inspection Schedule

- a. Monthly maintenance inspections shall be conducted to ensure that all BMPs identified in the SPPP are being properly implemented and/or maintained.
- b. Record any problems identified and the corrective action(s) implemented.
- c. All monthly inspection records shall be maintained onsite and available for Department Inspection.
- d. Annual inspections shall be conducted in accordance with Section G.

6. Additional Requirements

- a. The SPPP shall include (or cite the location of) the following requirements, if applicable:
 - i. Any spill reports prepared under section 313 in Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, 42 U.S.C. 9601 et seq;
 - ii. Any Spill Prevention Control and Countermeasure Plan (SPCC Plan) prepared under 40 CFR 112 and section 311 of the Clean Water Act, 33 U.S.C. 1321; any Discharge Prevention, Containment and Countermeasure Plan (DPCC Plan); and Discharge Cleanup and Removal Plan (DCR Plan) prepared under N.J.A.C. 7:1E; and
 - iii. For any industrial stormwater discharges through a municipal separate storm sewer system that has a final NJPDES discharge permit, compliance with all applicable requirements of the municipal stormwater program developed under that permit.

7. Employee Training

- a. Annually, employees shall be trained to ensure that they understand the requirements of the permit, including the proper implementation and/or maintenance of all BMPs identified in the facilities SPPP.
 - i. Employees shall be trained on each aspect of your SPPP that is related to their daily responsibilities.
- b. All employee training records shall be maintained onsite and available for Department Inspection.

G. Annual Inspections

1. Annual Inspections

WILENTA FEED INC, Secaucus

Permit No. NJG0140325
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Renewal

- a. The permittee shall conduct annual self-inspections of the facility to ensure that the SPPP is:
 - i. Current and up-to-date;
 - ii. Properly implemented; and
 - iii. Effectively eliminating the exposure of source materials and/or industrial activity to stormwater discharges, as regulated under this permit, through the implementation of structural and non-structural BMPs.

H. Permit Submittal and Deadlines

1. Submittal Requirements

- a. Each facility being reauthorized as part of the automatic renewal shall submit the Department's Certification Form within the time frames specified in H.3 below, certifying that they have:
 - i. Updated their SPPP; and
 - ii. Conducted an annual inspection and are in compliance with the SPPP and the permit conditions.
- b. The Department's Certification Form is available on the Department's web site at <https://www.nj.gov/dep/dwq/5g2.htm>.

2. Submittal Deadlines for Facilities Being Reauthorized as Part of the Automatic Renewal

- a. SPPP update certification submittal requirements for facilities being reauthorized as part of the automatic renewal.
 - i. Submit the Certification Form certifying that the SPPP was updated: with the Annual Certification.
- b. Annual Certification submittal requirements for facilities being reauthorized as part of the automatic renewal. (Note: The appropriate calendar quarter for this submittal is indicated on your Authorization to Discharge page).
 - i. Submit the Certification Form certifying that the annual inspection was conducted: annually, by the end of the second calendar quarter (April thru June).

3. Where to Send All Permit Submittals

- a. All permit submittals shall be submitted electronically to Industrialstormwaterpermitting@dep.nj.gov or other Department designated electronic submission service.
 - i. Permittees shall contact the Department at Industrialstormwaterpermitting@dep.nj.gov if they have difficulty submitting permit submittals electronically.

I. Enforcement Inspections and Permitting Options

1. Enforcement of Permit Conditions

WILENTA FEED INC, Secaucus

Permit No. NJG0140325
DST230001 Stormwater Discharge General Permit Authorization
Renewal

- a. The Department's Bureau of Water Compliance and Enforcement routinely inspects facilities authorized under this permit. If violations of permit conditions occur, a facility may receive a Notice of Violation (NOV) and may be subject to penalties, including significant monetary penalties up to \$50,000 per day, per violation, pursuant to the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq).

2. Applying for Another NJPDES Stormwater Permit

- a. If a facility authorized under this permit discovers that the exposure of source materials and/or industrial activities to stormwater discharges has not been eliminated, or that the facility cannot comply with other provisions of this permit they should immediately contact the Bureau of NJPDES Stormwater Permitting and Water Quality Management at (609) 633-7021 or the Department's appropriate regional Bureau of Water Compliance and Enforcement to discuss permitting options.
- b. A facility that cannot comply with permit conditions may need to apply for an individual permit or for another industry specific general permit for its stormwater discharge. Authorization under this permit remains in effect until the date authorization under such other permit becomes effective or the Department revokes authorization under this permit.

J. Definitions

1. The following definitions apply to this permit.

- a. "Access Areas" means any immediate entry or egress (including roads and driveways) and rail lines used or traveled by carriers of raw materials, manufactured products, waste materials, or by-products used or created by the facility.
- b. "Best Management Practices" or "BMPs" include, but are not limited to, structural and non structural controls, and operation and maintenance procedures which can be applied before, during, and after pollution producing activities to reduce or eliminate the introduction of pollutants into receiving waters. (see N.J.A.C. 7:14A-1.2 for the full definition)
- c. "Contiguous" means directly abutting, or separated by a general access roadway or other right of way (with at least part of one property directly across the right of way from at least part of the other property).
- d. "Facilities being reauthorized" means any existing facility that was permitted under the expired permit and will be automatically renewed pursuant to Part 1.I.6 of this permit.
- e. "Industrial Activity" means, but is not limited to, manufacturing, processing, disposing, storing, loading and unloading, transporting or conveying any raw material, intermediate product, final product, by-product, waste product or equipment. This also includes the treatment of a by-product or waste product and/or the maintenance of equipment associated with the regulated activity.
- f. "Industrial Stormwater" means water resulting from precipitation that discharges to the surface and/or ground waters of the State from areas of the facility where regulated activities occur and/or where exposed source materials are located
- g. "Newly Authorized Facilities" means any entity that is submitting a Request for Authorization (RFA) for a regulated activity.
- h. "Operating Entity" means any person who alone or along with other persons has primary management and operational decision-making authority over any part of a facility.

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- i. "Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product. Process wastewater includes, but is not limited to, leachate and contact cooling water, pressure-wash wastewater, hydro-blasting wastewater, boat bottom wash wastewater, vehicle and equipment wash wastewater. This definition includes the terms commercial wastewater and industrial wastewater as used in 40 CFR Part 503. (Please note that for the purposes of this NJPDES permit, the stormwater discharges regulated by this permit are not process wastewaters.)
- j. "Standard Industrial Classification (SIC)" is a system for classifying the economic activities of most industries by a four-digit code.
- k. "Source Materials" mean any material(s) including but not limited to raw materials, intermediate products, final products, waste materials, by-products, industrial machinery, and fuels, lubricants, solvents, and detergents located at the facility that is directly or indirectly related to their industrial activities and which could be a source of pollutants in an industrial stormwater discharge.
- l. "Stormwater" means water resulting from precipitation (including rain or snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewerage or drainage facilities or conveyed by snow removal equipment.
- m. "Vehicle" means any device by which people, goods, property or material, is or may be transported upon the water, air or ground.

K. Standard Conditions

- 1. **The following conditions are incorporated by reference.**
 - a. General Permits N.J.A.C. 7:14A-6.13
 - b. Penalties for Violations N.J.A.C. 7:14-8.1 et seq.
 - c. Incorporation by Reference N.J.A.C. 7:14A-2.3
 - d. Toxic Pollutants N.J.A.C. 7:14A-6.2(a)4i
 - e. Duty to Comply N.J.A.C. 7:14A-6.2(a)1 & 4
 - f. Duty to Mitigate N.J.A.C. 7:14A-6.2(a)5 & 11
 - g. Inspection and Entry N.J.A.C. 7:14A-2.11(e)
 - h. Enforcement Action N.J.A.C. 7:14A-2.9
 - i. Duty to Reapply N.J.A.C. 7:14A-4.2(e)3
 - j. Signatory Requirements for Applications and Reports N.J.A.C. 7:14A-4.9
 - k. Effect of Permit/Other Laws N.J.A.C. 7:14A-6.2(a)6 & 7 & 2.9(c)
 - l. Severability N.J.A.C. 7:14A-2.2
 - m. Administrative Continuation of Permits N.J.A.C. 7:14A-2.8
 - n. Permit Actions N.J.A.C. 7:14A-2.7(c)

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 Renewal

- o. Reopener Clause N.J.A.C. 7:14A-6.2(a)10, 16.4(b) & 25.7(b)
- p. Permit Duration and Renewal N.J.A.C. 7:14A-2.7(a) & (b)
- q. Consolidation of Permit Process N.J.A.C. 7:14A-15.5
- r. Confidentiality N.J.A.C. 7:14A-18.2 & 2.11(g)
- s. Fee Schedule N.J.A.C. 7:14A-3.1
- t. UIC Corrective Action N.J.A.C. 7:14A-8.4
- u. Additional Conditions Applicable to UIC Permits N.J.A.C. 7:14A-8.9
- v. UIC Operating Criteria N.J.A.C. 7:14A-8.16

2. Operation and Maintenance

- a. Need to Halt or Reduce not a Defense N.J.A.C. 7:14A-2.9(b)
- b. Proper Operation and Maintenance N.J.A.C. 7:14A-6.12

3. Monitoring and Records

- a. Monitoring N.J.A.C. 7:14A-6.5
- b. Recordkeeping N.J.A.C. 7:14A-6.6
- c. Signatory Requirements for Monitoring Reports N.J.A.C. 7:14A-6.9

4. Reporting Requirements

- a. Planned Changes N.J.A.C. 7:14A-6.7
- b. Reporting of Monitoring Results N.J.A.C. 7:14A-6.8
- c. Noncompliance Reporting N.J.A.C. 7:14A-6.10 & 6.8(h)
- d. Hotline/Two Hour & Twenty-four Hour Reporting N.J.A.C. 7:14A-6.10(c) & (d)
- e. Written Reporting N.J.A.C. 7:14A-6.10(e) &(f) & 6.8(h)
- f. Duty to Provide Information N.J.A.C. 7:14A-2.11, 6.2(a)14 & 18.1
- g. Compliance Schedules N.J.A.C. 7:14A-6.4
- h. Transfer N.J.A.C. 7:14A-6.2(a)8 & 16.2

WILENTA FEED INC, Secaucus

Permit No. NJG0140325
DST230001 Stormwater Discharge General Permit Authorization
Renewal

Exhibit 17

Compliance Evaluation Report

Start Date: 6/2/2023

Activity: SCI230001 *Standard Compliance Inspection

Lead Investigator: Coppola, Maria

130633 WILENTA FEED INC, Secaucus Town (NJPDES)

Requirement	Status RTC	Results or Comments	Req. Source Ref # Req. Type
-------------	---------------	---------------------	-----------------------------------

Subject Item: 5G2 - Basic Industrial Stormwater (GP)

Operating Status: No status specified.

Comments: No comments added.

Comply with ALL of the no exposure requirements of your NJPDES Permit. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Wilenta is working toward compliance by complying with requirements in JCO, including the application for an individual stormwater permit.	NEA220001 T
Implement necessary Best Management Practices to eliminate source materials from coming into contact with stormwater during rain events. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>		NEA220001 T
Implement necessary Best Management Practices to eliminate source materials from coming into contact with stormwater runoff during rain events. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>		NEA220001 T
Comply with permit requirements: on the effective date of this document. [N.J.A.C. 7:14A- 6]	IC <input type="checkbox"/>		NEA220001 S
Immediately remove the odorous source material that is gray-greenish in color from the on-site stormwater detention pond. During rain events, this material causes an unauthorized discharge to the municipal storm sewer collection system, ultimately to Penhorn Creek. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Material in the process of being removed.	NEA220001 T
Did the Permittee prepare a Stormwater Pollution Prevention Plan (SPPP) as required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	SPPP revised 12/22.	DST230001 80 T
Was the SPPP amended to reflect any operational changes which affect the industrial stormwater discharge?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 84 T
Did the Permittee make the SPPP available or provide a copy upon request to an authorized representative of the Department?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 89 T
Does the SPPP include a detailed description of all source materials used, stored, or otherwise located at the facility and all industrial activities conducted at the facility?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 94 T
Does the SPPP include a list of all non-stormwater discharges, as defined by the Permit, to surface or ground water?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 95 T
Does the SPPP include a map of the entire facility containing all features specifically required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 99 T
Does the SPPP include a plan that ensures regular, preventative maintenance and appropriate repairs, including replacement, of all structural BMPs identified above and the updating of non-structural BMPs such as Standard Operating Procedures (SOPs)?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 109 T

IC - In Compliance
PV - Potential Violation
DC - Data Collection

ND - Compliance Not Determined
NC - No Obvious Concern
WN - Warning

OC - Out of Compliance
ON - Out of Compliance, Non-referred

NA - Not Applicable
Y - Yes

NI - Not Inspected
N - No

Compliance Evaluation Report

Start Date: 6/2/2023

Activity: SCI230001 *Standard Compliance Inspection

Lead Investigator: Coppola, Maria

130633 WILENTA FEED INC, Secaucus Town (NJPDES)

Requirement	Status RTC	Results or Comments	Req. Source Ref # Req. Type
-------------	---------------	---------------------	-----------------------------------

Subject Item: 5G2 - Basic Industrial Stormwater (GP)

Operating Status: No status specified.

Comments: No comments added.

Are monthly maintenance inspections being performed that ensure all BMPs identified in the SPPP are being properly implemented and/or maintained?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 111 T
Are problems identified during monthly maintenance inspections and the corrective action(s) implemented being recorded?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 112 T
Are monthly maintenance inspection records maintained onsite and available for Department inspection?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 113 T
Does the SPPP include or cite the location of any Spill Prevention Control and Countermeasure Plan (SPCC Plan), Discharge Prevention, Containment and Countermeasure Plan (DPCC Plan), and/or Discharge Cleanup and Removal Plan (DCR Plan), if applicable?. [N.J.A.C. 7:14A- 6.2(a)1]	NA <input type="checkbox"/>		DST230001 118 T
Is annual employee training being performed and recorded as required by the Permit?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes, December 2022.	DST230001 121 T
Once the SPPP has been implemented, has the Permittee conducted and documented annual self-inspections?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 126 T
Did the facility submit certification that the Annual Inspection was conducted each year by the end of the second calendar quarter (April - June)?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 140 S
Does the facility maintain records required by the Permit a minimum of five (5) years?. [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 194 T
Planned Changes N.J.A.C. 7:14A-6.7 [N.J.A.C. 7:14A- 6.2(a)1]	IC <input type="checkbox"/>	Yes	DST230001 197 T

IC - In Compliance

ND - Compliance Not Determined

OC - Out of Compliance

NA - Not Applicable

NI - Not Inspected

PV - Potential Violation

NC - No Obvious Concern

ON - Out of Compliance, Non-referred

Y - Yes

N - No

DC - Data Collection

WN - Warning

Exhibit 18



New Jersey Department of Environmental Protection
Water Compliance and Enforcement
Northern Regional Office
7 Ridgedale Avenue
Cedar Knolls, NJ 07927-1112
Tel: (973) 656-4099 Fax: (973) 656-4400

NOTICE OF VIOLATION

EA ID #: NEA 230001
(completed by DEP upon data entry)

Facility/Prog. Interest Name: Wilenta Feed Co. DEP ID NO: PI # 130633

Location: Henry St Secaucus, Hudson County

Person Interviewed: Michael Wilenta Title: COO

You are hereby NOTIFIED that during a compliance evaluation on October 6, 2023, the following violation(s) of the indicated New Jersey State Statute(s), and the regulations promulgated thereunder, were observed. These violation(s) have been recorded as part of the permanent enforcement history for the above.

- New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.
- New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.
- New Jersey Water Supply and Waste Water Operators Licensing Act, N.J.S.A. 58:11-64 et seq.
-

Subject: ~~the~~ NJPDES Citation: NJAC 7:14 - 1.2 et seq.

Description of Noncompliance: Failure to comply with the terms & conditions of the JCO: Failure to store source materials indoors, failure to charge & clean up the stormwater sedimentation basin. Failure to make penalty payments

Subject: in accordance with Paragraph H of Citation: the JCO

Description of Noncompliance: Discharge of food waste material from stormwater detention pond via pump in sedimentation pond to the ~~ground~~ storm drain to Peacham Creek

You must take the following corrective actions:

Submittal or Action: _____

by _____ (date) OR _____ calendar days from _____

Submittal or Action: _____

by _____ (date) OR _____ calendar days from _____

Within 5 calendar days of receipt of this Notice of Violation, you shall submit in writing to the individual issuing this notice, an explanation of the corrective measures you have taken to achieve compliance.

Issuance of this Notice of Violation serves as notice to you that the Department has determined that a violation(s) has occurred and does not preclude the State of New Jersey or any of its agencies from initiating administrative or judicial enforcement action, or from assessing penalties or from modifying this Notice of Violation, with respect to this or other violations. Pursuant to the above indicated statutes, violations of these regulations are subject to penalties of up to \$ 50,000 per day/offense.

Issued by: Maria Coppola Signature: [Signature] Date: 10/6/23

Received by: Michael Wilenta Signature: [Signature] Date: 10/6/23

Exhibit 19



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER COMPLIANCE & ENFORCEMENT
NORTHERN REGIONAL OFFICE
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Tel. (973) 656-4099 • Fax. (973) 656-4400

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

SHAWN M. LATOURETTE
Commissioner

SENT VIA EMAIL
RECEIPT CONFIRMATION REQUESTED

October 23, 2023

Micael Wilenta, COO
Wilenta Feed, Incorporated
46 Henry Street
Secaucus, New Jersey 07094

RE: Compliance Evaluation and Assistance Inspection
Wilenta Feed Incorporated
PROGRAM INTEREST ID # 130633
PROGRAM: Water Quality
Compliance Activity # SCI 230002
NJPDES NO. NJG0140325 - DST
Secaucus Town, Hudson County

Dear Mr. Wilenta:

A Compliance Evaluation and Assistance Inspection of your facility was conducted on October 6, 2023. Please address any items or concerns noted on the comments section of the attached report.

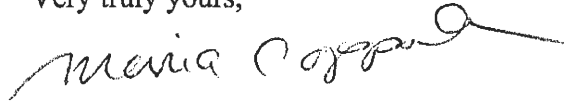
The items noted in the attached report with a compliance status of "OC" or "ON" and in the Notice of Violation issued during the inspection have placed your facility in violation of your NJPDES permit and/or Water Pollution Control Act. A written report concerning specific details of remedial measures to be instituted for these items, as well as an implementation timetable, must be submitted to this Bureau within thirty (30) calendar days of receipt of this correspondence.

You are advised that the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), provides for substantial penalties in cases of permit violations. Therefore, your prompt attention to this matter is anticipated.

Note that you may also review your inspection report as well as many other DEP reports online at www.nj.gov/dep/inspections. This website also gives you the opportunity to provide us feedback about our operations. We would appreciate your input and will share all results with you upon your completion of a survey.

If you have any questions concerning the attached report, contact me at (609) 439-9584, maria.coppola@dep.nj.gov or by letter at the letterhead address.

Very truly yours,

A handwritten signature in black ink that reads "Maria Coppola". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Maria Coppola
Environmental Specialist 3
Water Compliance and Enforcement
Northern Region

Attachment

- c: Chief Donald Hirsch, Water Compliance and Enforcement Northern Region
Bureau of Non-point Pollution Control (T-1 and GS)
Secaucus Health Department
Hudson County Regional Health Commission

Exhibit 20



46 Henry St.
Secaucus, NJ 07094
201.863.3035 office
201.863.2705 fax
BIC# 3353
www.wilentafeed.com
www.wcony.com

10/11/2023

Dear Ms Coppola,

We are in receipt of your 10/6/23 Notice Of Violation issued to Wilenta Feed Company for four alleged violations of our NJPDES General Permit. The NOV directs that we respond to you within 5 days of our receipt with an explanation of the corrective measures we will/have taken to achieve compliance:

1) Failure to store source materials indoors

- Since the severe and extensive rainfalls ended, we were able to clean up and return to normal with all materials indoors

2) Failure to dredge and clean the basin

- Our routine cleaning of the basin was disrupted due to the excessive rainfalls which overflowed city streets into our basin. This has been rectified.

3) Failure to make penalty payments pursuant to paragraph 11 of the ACO ?

- We do not believe this Section of the ACO calls for any penalties., therefor NA

4) Discharge of food waste material from stormwater detention pond via pumping to storm drain in street

- While we did pump stormwater from basin to drain, we do not believe it inadvertently contained food waste material. In any event we have ceased such pumping

The extensive rainfalls, which were not anticipated, caught us off guard and created an emergency situation for our business. Please consider this as our response to the 10/6/23 NOV.

Sincerely,
Michael Wilenta

Exhibit 21



New Jersey Department of Environmental Protection
Water Compliance and Enforcement
NOTICE OF VIOLATION

File # _____
PI # _____

Site Name: Wilenka Site Address: Henry St
Municipality: Seracucus Block: _____ Lot: _____ County: Hudson Zip: 07094
Property Owner: Wilenka Prop. Owner's Address: Same as above Phone: 201 563-3085
Responsible Entity (if other than Property Owner): Michael Wilenka R.E. Address: _____
R.E. City: _____ State: _____ Zip: _____ Phone: _____

On April 5, 2024 a representative from the NJDEP Water Compliance and Enforcement (WC&E) conducted an investigation into this site/matter. This NOTICE is issued based on facts observed by or known to the Department's representative issuing this NOTICE, to warn you that a violation(s) of the Statutes and Rules checked below has been found.

- New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.
- New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq.
- New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.
- New Jersey Water Supply and Waste Operators Licensing Act, N.J.S.A. 58:11-64 et seq.

EXPLANATION OF THIS NOTICE - Violation with citation(s) to the specific Rules issued under the above checked Statutes:

pump in detention basin w/ hose
pumping waste - gray material into storm drain
for waste material stored outside storage
garage - causing exposure * in violation of 562
respond with 5 calendar days with list of corrective actions to remediate violations cited

PURPOSE OF THIS NOTICE - This is intended to serve as a NOTICE to you, to warn you of the above violations, in order to 1) provide you with an opportunity to voluntarily investigate the matter and, voluntarily take corrective action to address the identified violation(s) and 2) identify those violations, and time periods, pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq, where your voluntary action can prevent formal enforcement orders and penalties issued by the Department (see violations marked with an asterisk above *). This NOTICE does not constitute a formal enforcement order, a final agency action or a final legal determination that a violation has occurred. Therefore, this NOTICE may not be appealed or contested.

Neither the issuance of this NOTICE nor any corrective actions taken by you to address the violation(s) cited, precludes the State of New Jersey or any of its agencies from initiating future enforcement action (including issuance of a formal enforcement order and the assessment of penalties) with respect to the violations listed above or for any other violations. In the event the Department determines to pursue future formal enforcement action, you will then be provided with an opportunity to appeal or contest such action.

RESPONDING TO THIS NOTICE - Voluntary corrective actions taken in response to this NOTICE can affect the Department's determination on the need for or severity of any potential future enforcement action in this matter. In accordance with the Grace Period Law, the Department will not assess a penalty against you for the violations marked with an asterisk * above, if you take voluntary action to address and correct these violations at the time of issuance, or within the time periods indicated in this NOTICE. For violations identified in this NOTICE that are not subject to the Grace Period Law, the Department may consider any voluntary actions you take in response to this NOTICE as part of its determination 1) on whether to initiate future formal enforcement action for this site/matter and, 2) on the amount of any penalty that may be assessed in future enforcement actions. Please see items checked below regarding actions you may voluntarily undertake to address violations identified in this NOTICE.

CORRECTION ACTION PAGE(S) - The Corrective Action Page(s) outlines the timeframes pursuant to the Grace Period Law during which you may voluntarily take action to come into compliance. Depending on the nature of violations cited in this NOTICE, corrective action or compliance assistance recommendations for violations that are not subject to the Grace Period Law may also be outlined on this form.
 Not Provided for this NOTICE
 See additional _____ (#) attached pages respond within 5 days of receipt of this NOV

COMPLIANCE RESPONSE FORM - Submission of a Compliance Response Form if checked below is voluntary. Completed forms should be sent to the Department contact indicated at the bottom of this NOTICE.
 Not Applicable
 If received within _____ days of receipt it will preserve your protection from penalty under Grace Period Law
 If received within _____ days of receipt it will be considered in potential future Department action regarding the violations cited.

FOR QUESTIONS REGARDING THIS NOTICE, please contact the Department representative issuing this NOTICE at the location indicated:
 Southern Water Enforcement 2 Riverside Drive, Suite 201 Camden, NJ 08103 Tel. (856) 614-3655 FAX (856) 614-3608
 Northern Water Enforcement .7 Ridgedale Ave., Cedar Knolls, NJ 07927-1112 Tel. (973) 656-4099 FAX (973) 656-4400
 Central Water Enforcement PO Box 420 Trenton, NJ 08625-0420 Tel. (609) 292-3010 FAX (609) 292-6450

Issued by: Maria Cappola Date: 4/15/24 Signature: Maria Cappola
Received by (print): Michael Wilenka Date: 4/15/24 Signature (receipt only): Michael Wilenka

NJDEP Use Only: Certified Mail Date Mailed _____ Article # _____

Exhibit 22



Wilenta Feed, Inc.
46 Henry St.
Secaucus, NJ 07094
201.863.3035 office
201.863.2705 fax
www.wilentafeed.com

04/05/2024

Dear Ms. Coppola,

Wilenta Feed received your Notice of Violation issued 04/05/2024 for alleged violation of our NJPDES General Permit. The NOV directs that we respond to you within 5 days of our receipt with an explanation of the corrective measures. Wilenta has come up with a solution to resolve this issue of storm water entering the detention basin completely.

- Wilenta will dig down 2' at the inlet to the stormwater basin where all stormwater drains into by two pipes.
- A solid, completely sealed containment box will be placed in this spot to contain all stormwater entering from the two inlet pipes, making it a retention area: [Endura XL 4075A04MT 75 GPM Polyethylene Hydromechanical Grease Interceptor with Type 'M' Covers and 4" Female Threaded Connections \(webstaurantstore.com\)](#)
- A float pump will be placed in the containment box and will automatically pump all water and any suspended solids into a Frac Tank: [Aquastrong 1HP Sewage Sump Pump, Stainless Steel, 115V 5283GPH, Cast Iron Impeller, Tethered Float Switch, Submersible Effluent/Sewage Pump for Sump Basin, Basement, 2" NPT Discharge - Amazon.com](#)
- The Frac Tank will be a round cylinder design (6,250 gallon Capacity) which will be placed in the area along the curblin on the stone above the inlet: [Ace Roto-Mold 6250 Gallon Liquid Storage Tank - A-VT6250-102 \(plastic-mart.com\)](#)
- There will be a hose connecting the pump and Frac tank, this will completely eliminate all stormwater from entering the detention basin all together.
- The only water which will enter the detention basin will be rainwater from the roofs gutters that were designed to enter there.

Wilenta believes this is the best and only way to completely eliminate all of the property's storm water from entering the basin. Wilenta will have the Frac Tank Pumped out as needed and disposed at a proper stormwater treatment facility such as the Passaic Valley Sewerage Commission (PVSC). Wilenta will have a certified pump truck company (FCI, or Denali Water) come empty the tank and deliver to PVSC or another designated sight.

Please accept this response as a complete and total solution to end this issue. Wilenta diverts approximately 90,000,000 million pounds of food by-products every year from entering landfills and repurposes it into animal feed. Wilenta is protecting the environment every day and will eliminate all stormwater issues. Wilenta will start on this immediately and will keep the DEP (Maria Coppola), updated on all progress. We intend to have this completed as soon as possible, the speed of this project is all dependent on parts availability, and contractors scheduling. Pictures of items are below and links to specific items are in the bullet points, so you have a visual of our solution.

We respect what you do, and we hope you think the same of our efforts to completely resolve this with you.

Sincerely,
Michael Wilenta
COO
Wilenta Feed, Inc.



MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. BOX 093
Trenton, New Jersey 08625-0093
Attorney for Plaintiffs

By: James M. LaBianca
Deputy Attorney General
Attorney ID: 014702004
Ph: (609) 376-2740
james.labianca@law.njoag.gov

NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, and SHAWN LATOURETTE, COMMISSIONER OF DEPARTMENT OF ENVIRONMENTAL PROTECTION,	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION -
	:	HUDSON COUNTY
	:	DOCKET NO. HUD-L-001886-21
Plaintiffs,	:	<u>CIVIL ACTION</u>
v.	:	CERTIFICATION OF JUAN NUNEZ
WILENTA FEED, INC.; "XYZ CORPORATIONS" 1-10; and "JOHN AND/OR JANE DOES" 1-10,	:	
	:	
Defendants.	:	
	:	

I, **JUAN NUNEZ**, of full age, certify as follows:

1. I am currently employed by the Hudson County Regional Health Commission ("Commission") as an Environmental Specialist.
2. My job responsibilities include enforcement of various statutes and regulations overseen by the Commission, including the Water Pollution Control Act.
3. From 2017 to 2023 our office responded to the location of 46

Henry Street, Secaucus, d.b.a. Wilenta Feed ("Site"), approximately 10 times for complaints related to strong odors and improper storage of food waste. (Exhibits 1-10)

4. Specifically, regarding the complaints about food waste, I have reviewed the Commission's reports related to the Site and they have confirmed the following:

- a) On June 20, 2017 the Commission received several complaints about food waste being discharged into the street and sewers. During this inspection our office observed bread product piled outside of the structure. In addition, the nearby retention pond was pinkish in color and filled to capacity. Birds were observed feeding off the waste on Site. (Exhibit 2- Investigation Report dated June 20, 2017)

- b) On May 30, 2019 the Commission received a complaint about odors emanating from the Site. During the inspection our office observed a liquid mixture emanating from Wilenta into a catch basin. Birds were observed drinking from this water. (Exhibit 8- Investigation Report dated May 30, 2019)

5. In addition, based on my own investigation and inspections at the Site I have personally observed large stockpiles of food waste on the Site. I also observed the presence of a pump located inside the stormwater basin, which appeared to be

used to discharge food waste into the storm drain. (Exhibit
10-Investigation Report dated October 4, 2023)

CERTIFICATION

I certify that the foregoing statements made by me are true. I further certify that any exhibits attached hereto are true and correct copies. I further certify that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

/s/ Juan Nunez

Juan Nunez
Environmental Specialist
Hudson County Regional Health
Commission

Date: April 25, 2024

Exhibit 1

Hudson Regional Health Commission
Meadowview Complex
 595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: n/a **HRHC Log:** 2017-9311

DEP Site ID: **Type of Complaint:** Air **DEP Log:**

Location Name: Wilenta Feed

Address: 46 Henry St. **City:** Secaucus

Contact Person: **Tel:**

Nature of incident: Very bad odor from recycling company.

Complainant Name: Dennis Apablaza **Tel:** (201) 888-1851

Complainant Affiliation: citizen

Complaint Address: 66 Henry St. **City:** Secaucus

Receipt Date: 4/11/2017 **Time:** 11:05 AM **Received From:** Dep-Other

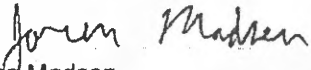
Investigation Date: 4/11/2017 **Time at Site:** 12:00

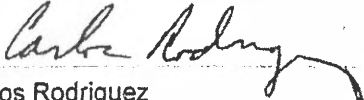
Other Agencies:

Findings:

I went out to the site and verified that there were intermittent garbage like odors between a 0 and 3 in intensity at the complainants property depending on the direction the wind was blowing. He signed a statement of complaint and I proceeded to do my investigation. Wilenta Carting at 46 Henry St. was found to be the source of the odors. I then called them and gave them a warning because they haven't been a problematic site with odors in a long time. If the odors occur again an NOV may be issued. The rest of the information including the statement of complaint, investigation sheet, and investigation map are in paper form and will be attached to the report. No further action required by HRHC at this time. - Joren Madsen, EHS

Results: Verified, but No Violation **File:** **Site:**

Investigator Signature:  4/13/17
 Joren Madsen

Program Coordinator Review:  **Date:** 4/13/17
 Carlos Rodriguez



NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
AIR COMPLIANCE & ENFORCEMENT

STATEMENT OF COMPLAINT

Complainant Name: DEVI'S APABLAZA

Home Address: 66 HENRY ST.

City / Township: SECAUCUS. Home Phone: 865 3802

Address where you experienced the air contaminant:

- Select one box - Check this box if same as above address
- Check this box if address is different than above and provide address below

Describe your complaint STRONG SMELL ODORS.

I noticed it today: 4/8/2017 First noticed it at (time): ALL DAY.
Mo. Day Year

Did this problem affect you and/or your property? Yes No

If "Yes", describe:

1. Your activities when the problem was noticed: HAVE TO KEEP WINDOWS CLOSE EVEN IS A NICE DAY.

2. The effect(s) on you and/or your activities: _____

3. Property damage and/or effects on your property (if any): _____

4. Other comments: _____

Has this problem been noticed before? Yes No If yes, how frequent? PERIODIC

I have completed the above statement and it is true. By signing this Statement, I acknowledge that I may need to present testimony at a future adjudicatory hearing pertaining to today's complaint.

Complainant Signature Devi Apablaza

Date _____
Mo. Day Year

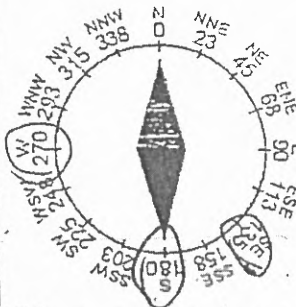
Witness by Investigator Juan Maldon

Time _____
Date 4/11/17
Mo. Day Year

Investigator (please check appropriate box): NJDEP CEHA Others _____

ODOR INVESTIGATION FIELD DATA

Time: 12:05 AM/PM PM
Date: 4/11/17

<p>Weather Conditions:</p> <p>Weather:</p> <input checked="" type="checkbox"/> Sunny (SY) <input type="checkbox"/> Partly Cloudy (PC) <input type="checkbox"/> Mostly Cloudy (MC) <input type="checkbox"/> Overcast (OC) <input type="checkbox"/> Hazy (HZ) <input type="checkbox"/> Night (NT)	<p>Precipitation:</p> <input checked="" type="checkbox"/> None (NO) <input type="checkbox"/> Fog (FG) <input type="checkbox"/> Rain (RN) <input type="checkbox"/> Sleet (ST) <input type="checkbox"/> Snow (SW)	<p>Wind Direction: (Blowing From)</p> 	<p>Wind Speed:</p> <input type="checkbox"/> Calm (CM) <input checked="" type="checkbox"/> Light Breeze (LB) (1-5 mph) <input type="checkbox"/> Moderate Wind (MW) (5-15 mph) <input type="checkbox"/> Strong Winds (SW) (15 or higher mph)
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Temperature : 70 °F/°C , Relative Humidity 36 %

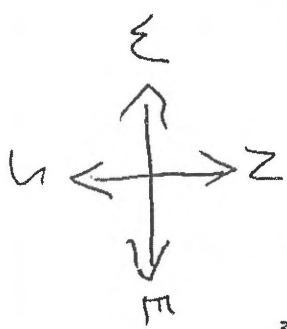
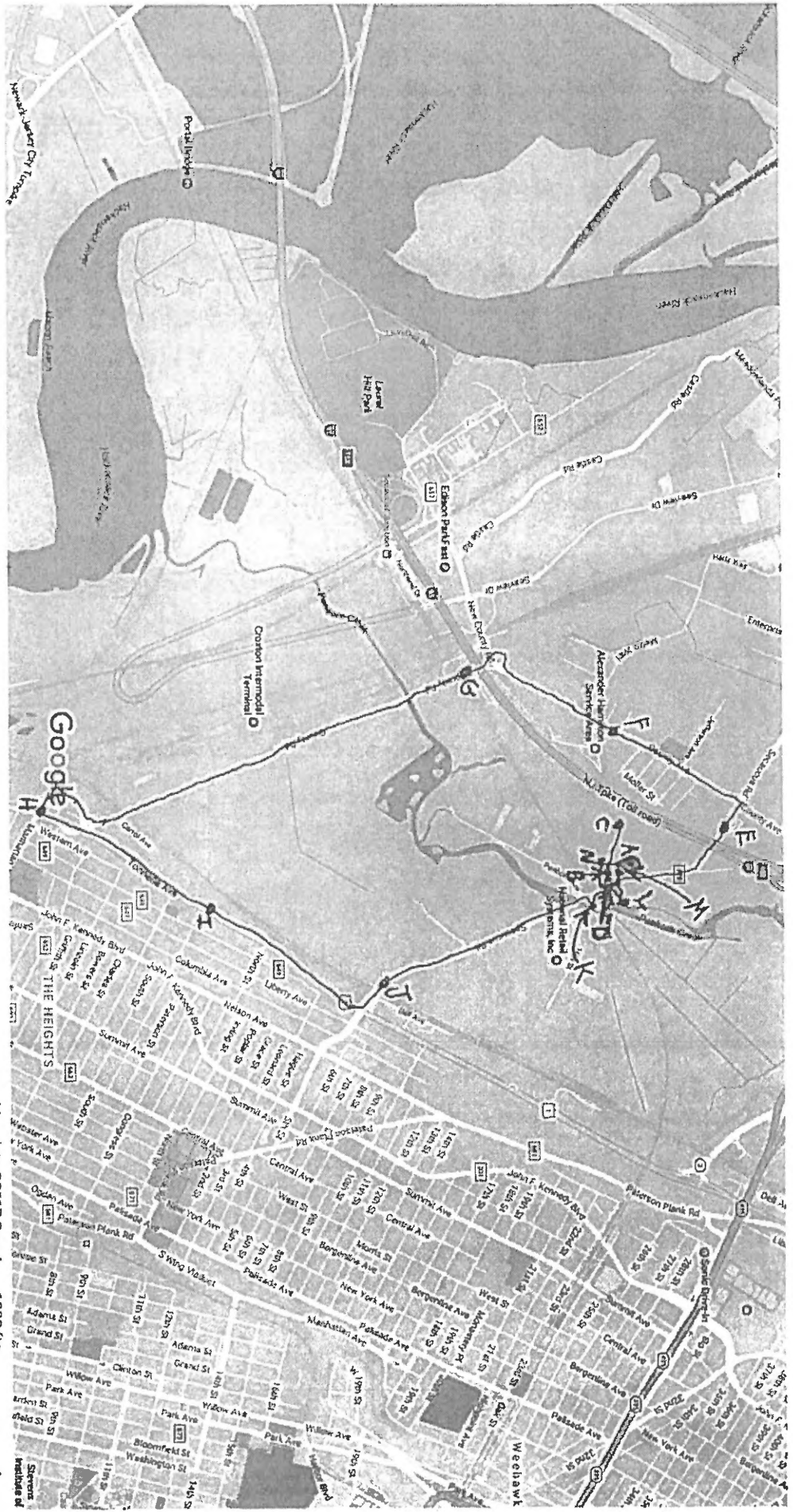
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Observations During 360

Time	Location	Scale (1-5)	Wind Direction/Wind Speed	Comments: When the wind sometimes shifted West I would smell the garbage odor
12:20	A	0-3	S - SE-W	garbage like (compliments Home)
12:25	B	2-3	S - SE-W	garbage like (at Wilenta Corting)
12:30	C	0	S - SE	
12:35	D	0	S - SE	
12:38	E	0	S - SE	
12:42	F	0	S - SE	

Signature: Jocelyn Madson Date: 4/11/17

Google Maps 66 Henry St (Complaints Area)



Map data ©2017 Google 1000 ft

Exhibit 2

Hudson Regional Health Commission
Meadowview Complex
 595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID:	N/A	HRHC Log:	2017-9384
DEP Site ID:	U2786	Type of Complaint:	DEP Log:
		Water Pollution	17-06-20-1357-28
Location Name:	Wilenta Feed		
Address:	46 Henry St.	City:	Secaucus
Contact Person:	Peter Wilenta, Mike Wilenta	Tel:	(201) 863-3035
Nature of incident:	Company next door is washing bakery waste into the streets and storm drains.		
Complainant Name:	John Hugerich	Tel:	(201) 315-5985
Complainant Affiliation	Citizen		
Complainant Address:	66 Henry Street	City:	Secaucus
Receipt Date:	6/20/2017	Time:	9:00 AM
		Received From:	Citizen
Investigation Date:	6/20/2017	Time at Site:	12:00pm
Other Agencies:	Secaucus Heath Dept, NJDEP		

Findings:

On 6/20/17, I received a complaint with regard to bakery waste washing into the street and sewers from Wilenta Feed on Henry Street in Secaucus. Wilenta Feed is a company that collects bakery/bread products for production of pig feed. I responded on site shortly after to conduct an investigation with Mike Walker of Hudson Regional Health Commission (HRHC). Prior to arriving at Wilenta we met with the complainant to discuss his concerns. While on site we did observe bread product that was piled outside of the structure and exposed to the elements. We also observed evidence of vehicles tracking residual product off site. The heavy rains experienced in the area the day prior also carried the product into Henry Street and impacted several catch basins. On the south side of Wilenta Feed we observed a retention pond that was a pinkish color and nearly filled to capacity. (see pictures) Wilenta also has several garbage trucks parked along Henry Street that have a strong sour odor. The inside of the trucks were covered in residual bakery waste thus attracting large amounts of birds. Mike Walker and I spoke to both Peter Wilenta and his son Mike Wilenta by phone about the issues that were occurring onsite. Once back at the office I reached out to NJDEP and made a notification to 1-877-WARN-DEP. Mike Walker spoke to Don Hirsch of NJDEP Water Compliance and Enforcement and I emailed over some pictures of our initial investigation.

Follow up:

6/21/2017 In response to my notification to NJDEP, Jomo Richards of Secaucus Health Department and I met with Maria Coppola of NJDEP Water Enforcement and Mike Berkes of Secaucus Code Enforcement at Wilenta Feed. I went through my findings from the day previous. We met with Peter Wilenta and he escorted us around the site. Periodic follow-ups will occur to ensure actions are taken to correct all noted issues.

Results: Verified, but No Violation

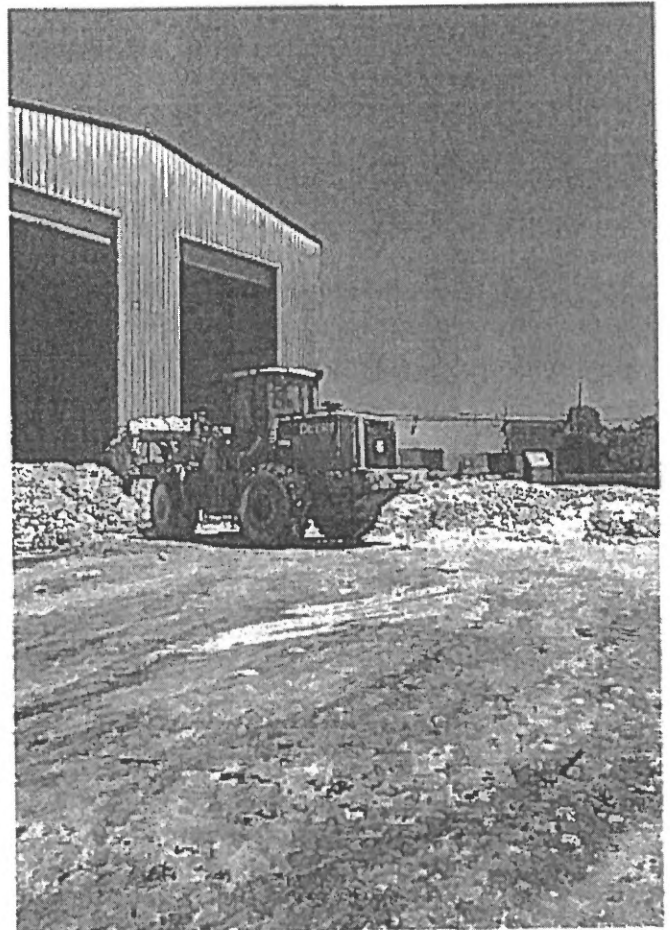
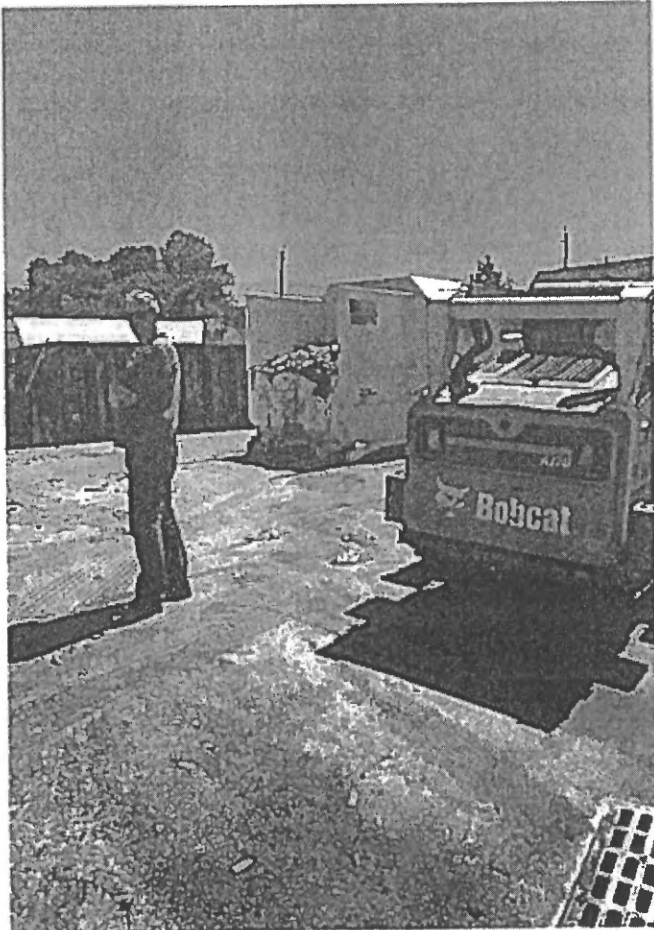
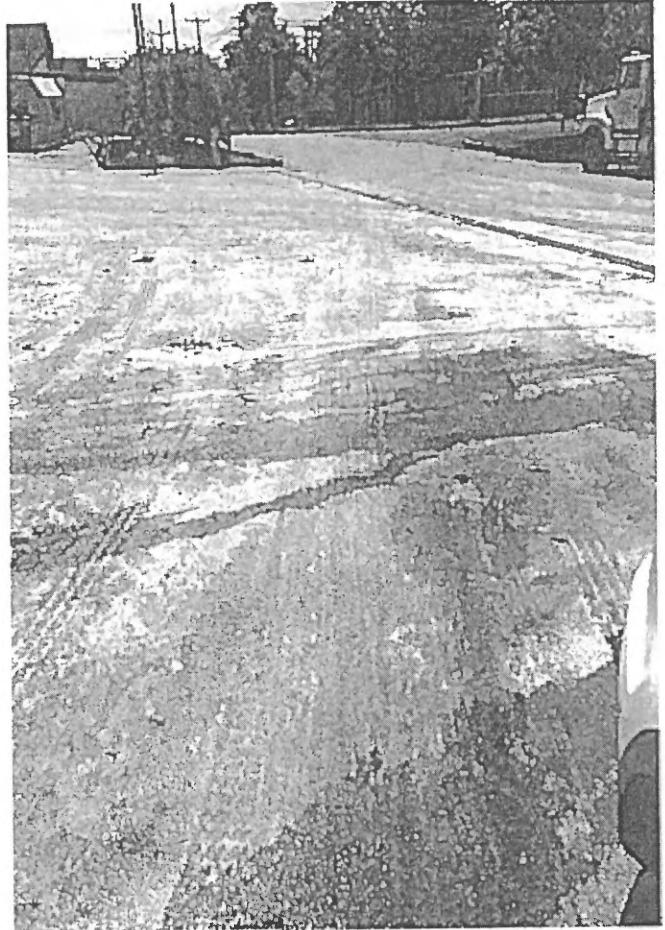
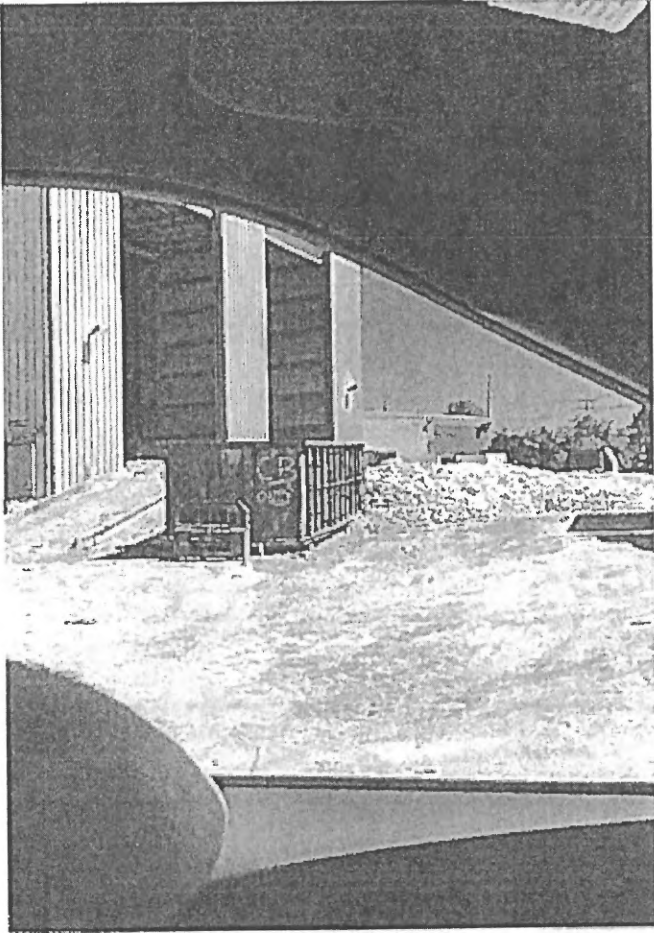
File: Log

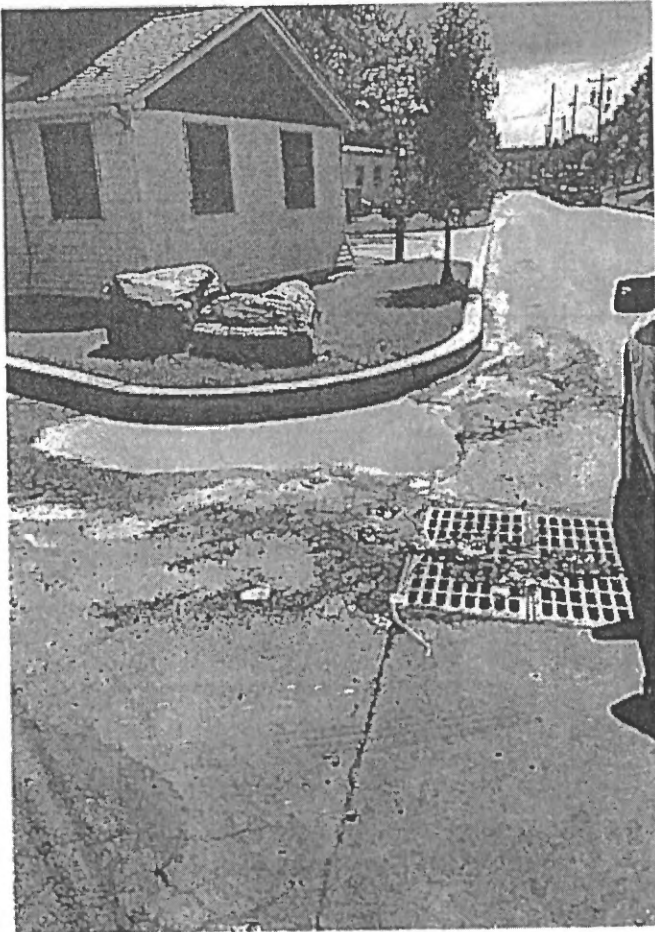
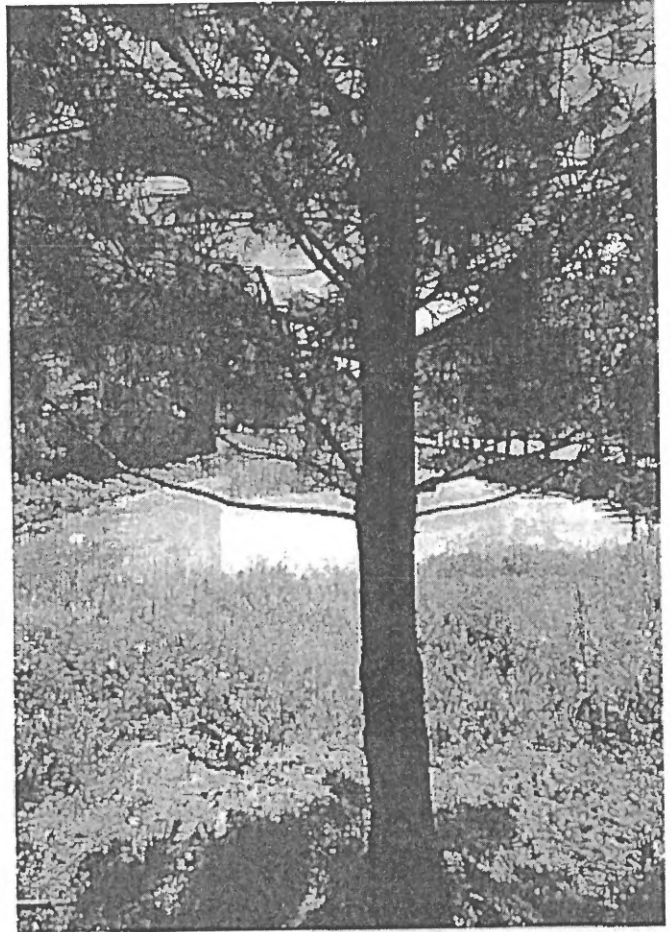
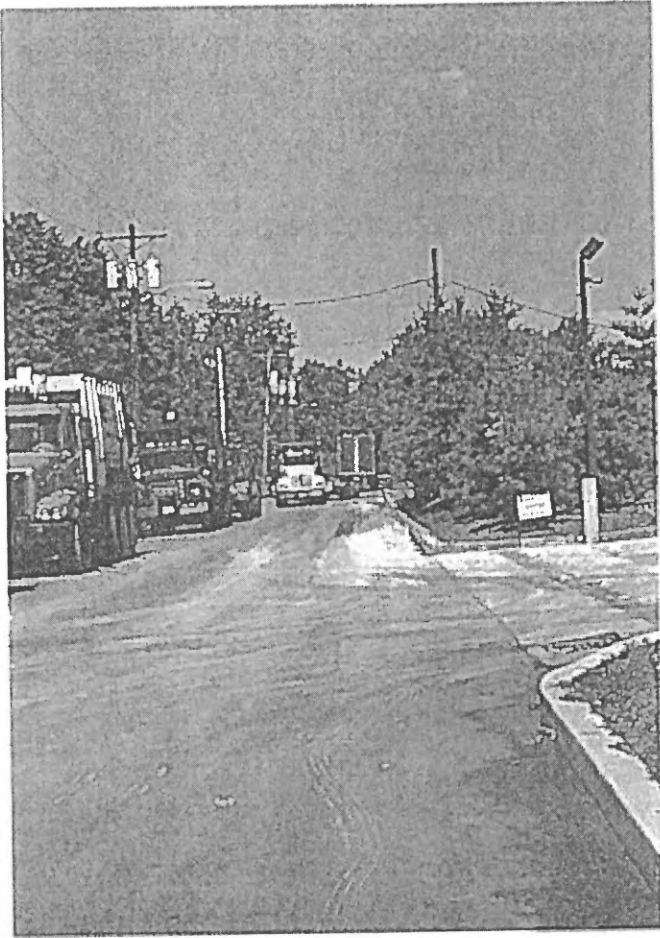
Investigator Signature:

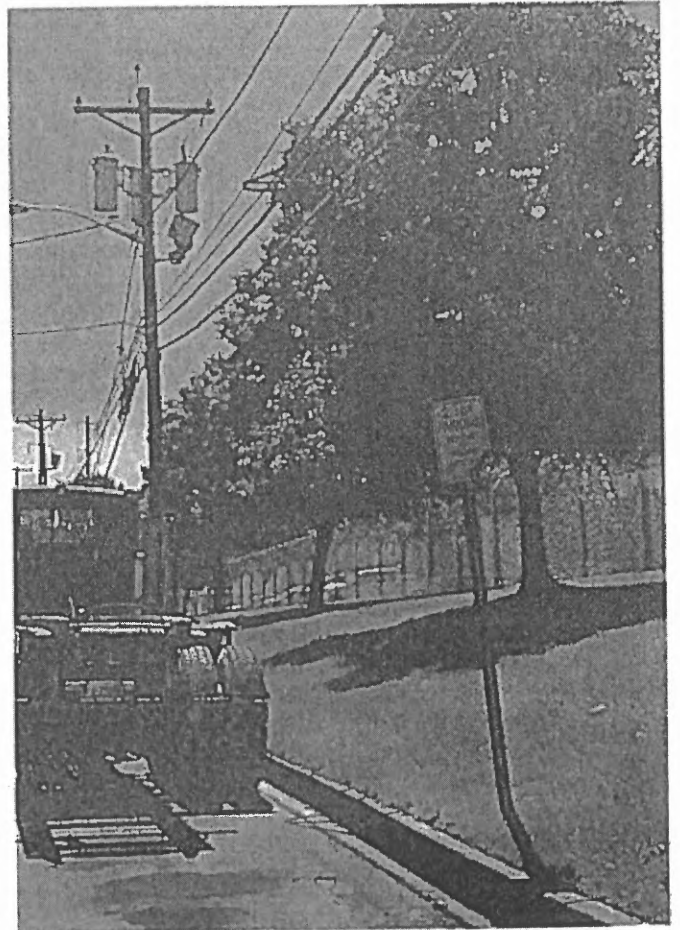
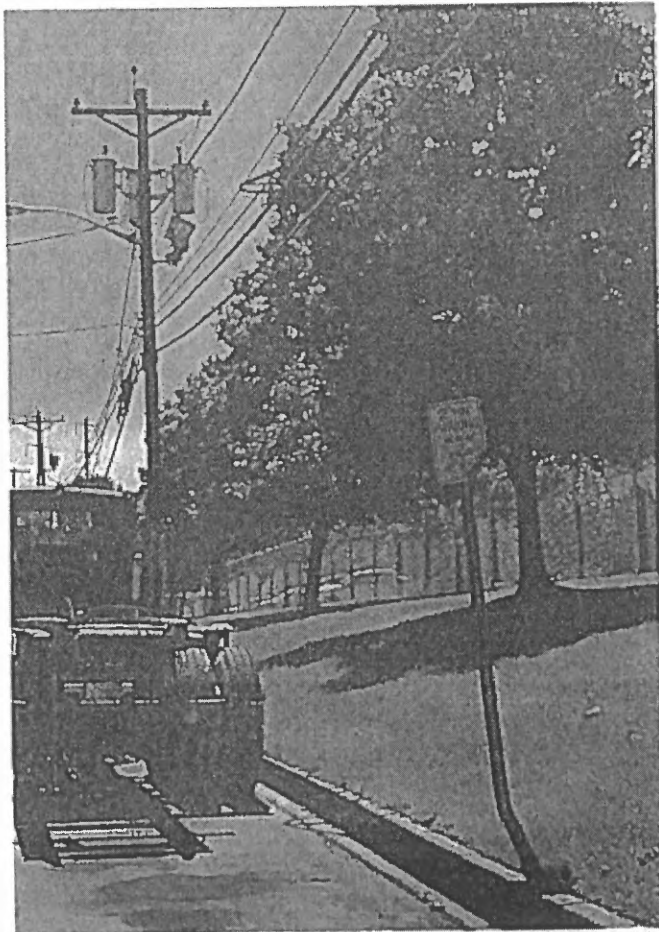
Nick Rivelli

Program Coordinator Review:  for
Carlos Rodriguez

Date: 8/1/17







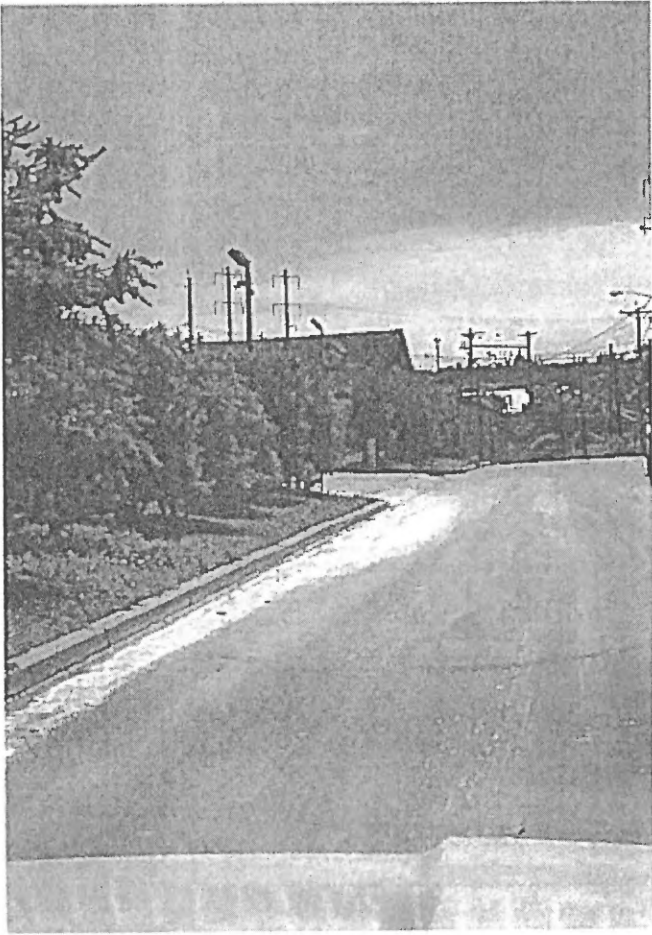


Exhibit 3

Hudson Regional Health Commission

Meadowview Complex

595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID:	<input type="text" value="N/A"/>	HRHC Log:	<input type="text" value="2017-9385"/>
DEP Site ID:	<input type="text" value="U2786"/>	Type of Complaint:	DEP Log:
		<input type="text" value="Water Pollution"/>	<input type="text"/>
Location Name:	<input type="text" value="Wilenta Feed"/>		
Address:	<input type="text" value="46 Henry Street"/>	City:	<input type="text" value="Secaucus"/>
Contact Person:	<input type="text" value="Peter Wilenta, Mike Wilenta"/>	Tel:	<input type="text" value="(201) 863-3035"/>
Nature of incident:	<input type="text" value="Caller complaint of bakery waste being washed into storm drains."/>		
Complainant Name:	<input type="text" value="Anonmyous"/>	Tel:	<input type="text"/>
Complainant Affiliation:	<input type="text"/>		
Complaint Address:	<input type="text"/>	City:	<input type="text" value="Secaucus"/>
Receipt Date:	<input type="text" value="6/20/2017"/>	Time:	<input type="text" value="10:00 AM"/>
		Received From:	<input type="text" value="Citizen"/>
Investigation Date:	<input type="text" value="8/20/2017"/>	Time at Site:	<input type="text" value="12:00pm"/>
Other Agencies:	<input type="text"/>		

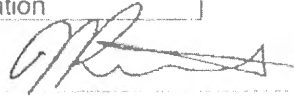
Findings:

On 6/20/17, I received a complaint with regard to bakery waste washing into the street and sewers from Wilenta Feed on Henry Street in Secaucus. Wilenta Feed is a company that collects bakery/bread products for production of pig feed. I responded on site shortly after to conduct an investigation with Mike Walker of Hudson Regional Health Commission (HRHC). HRHC received several complaints regarding the same issue on 6/20/17. All complaints were investigated together. Prior to arriving at Wilenta we met with the complainant from HRHC log # 2017-9384 to discuss his concerns. While on site we did observe bread product that was piled outside of the structure and exposed to the elements. We also observed evidence of vehicles tracking residual product off site. The heavy rains experienced in the area the day prior also carried the product into Henry Street and impacted several catch basins. On the south side of Wilenta Feed we observed a retention pond that was a pinkish color and nearly filled to capacity. (see pictures) Wilenta also has several garbage trucks parked along Henry Street that have a strong sour odor. The inside of the trucks were covered in residual bakery waste thus attracting large amounts of birds. Mike Walker and I spoke to both Peter Wilenta and his son Mike Wilenta by phone about the issues that were occurring onsite. Once back at the office I reached out to NJDEP and made a notification to 1-877-WARN-DEP. Mike Walker spoke to Don Hirsch of NJDEP Water Compliance and Enforcement and I emailed over some pictures of our initial investigation.

Results:

File:

Investigator Signature:



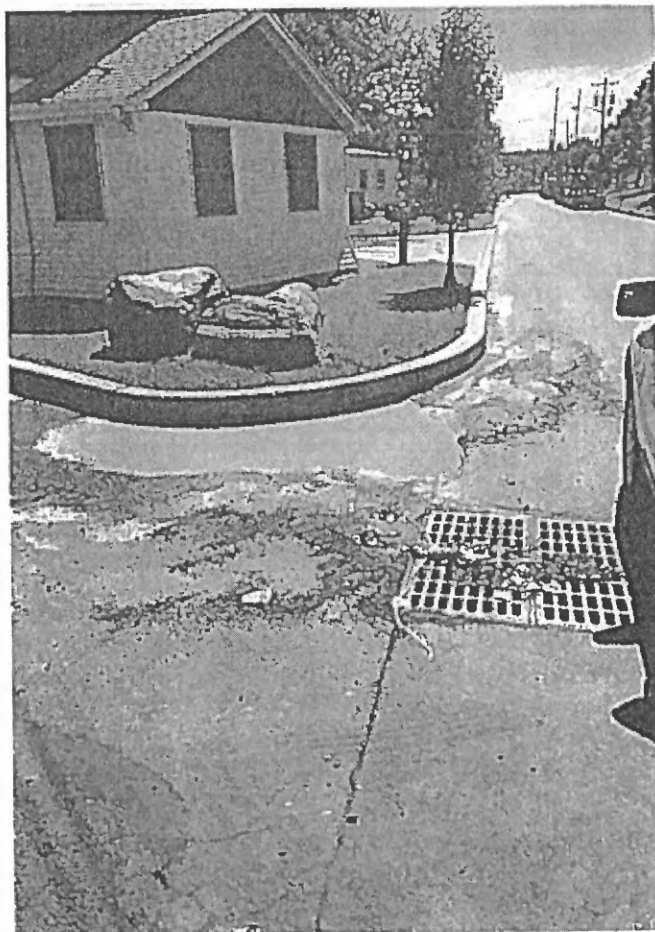
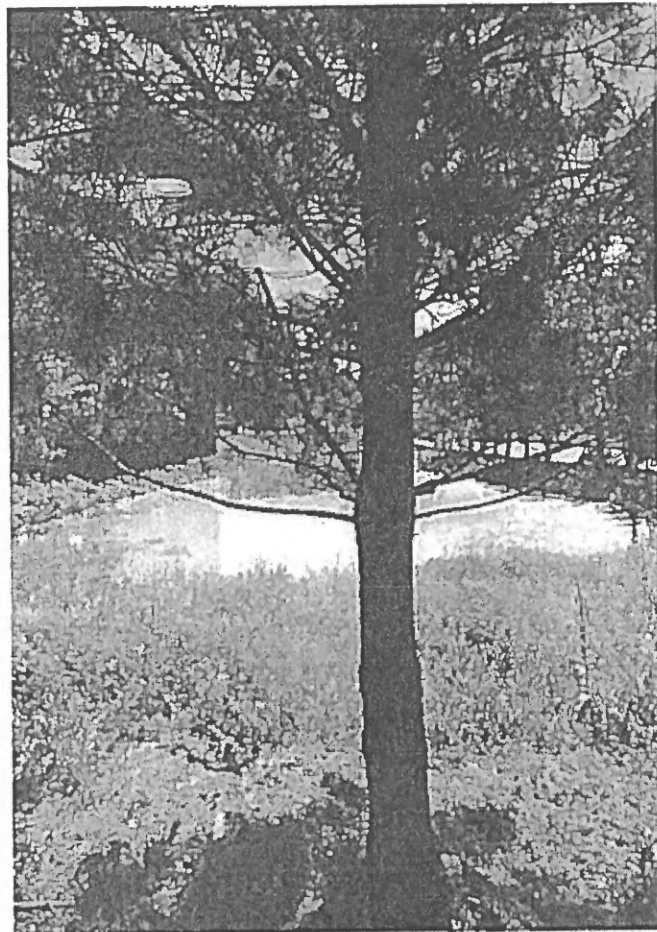
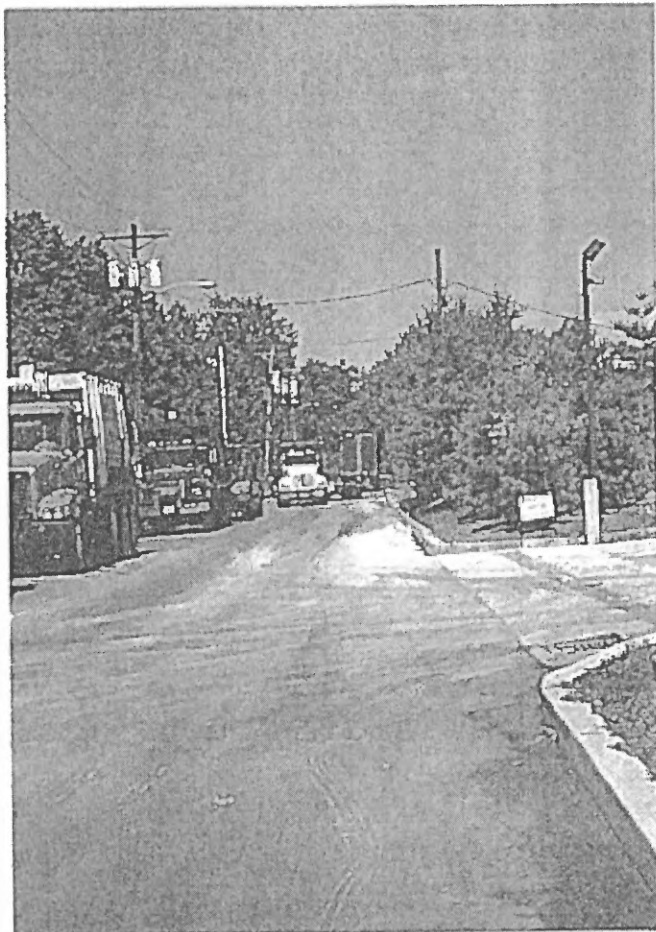
Nick Rivelli

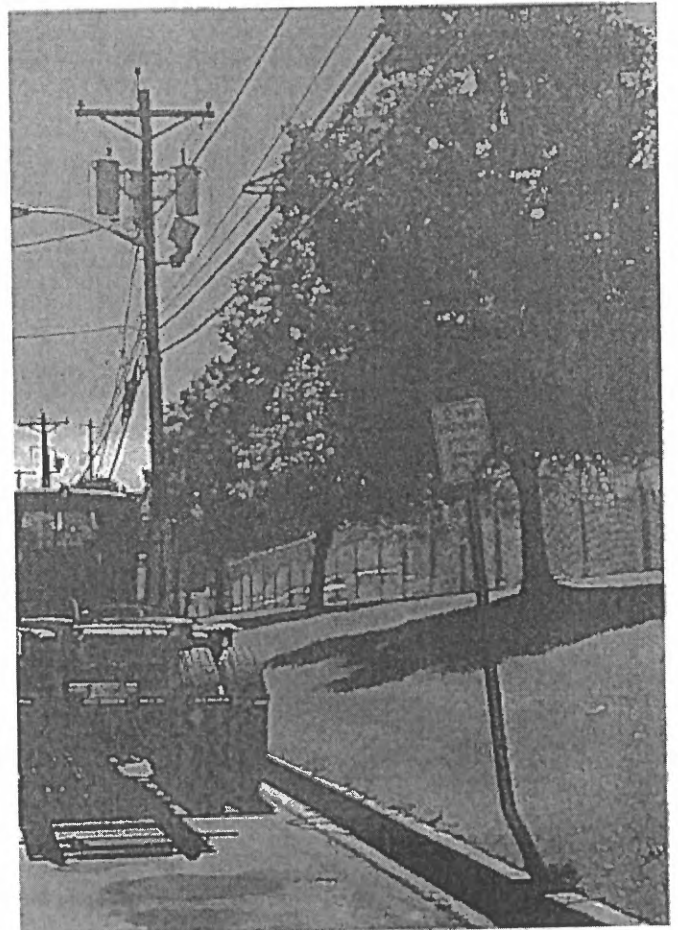
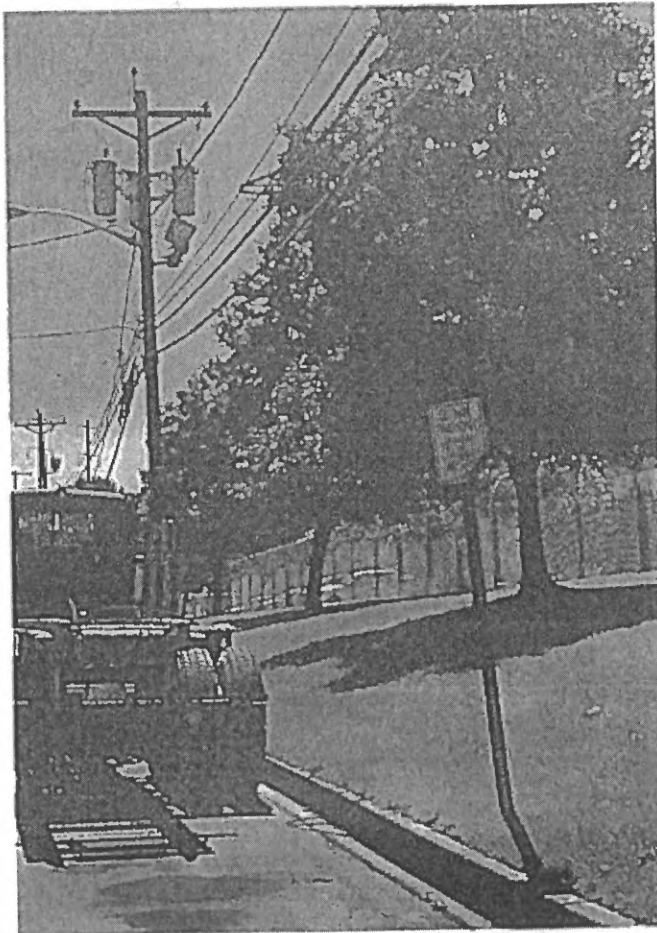
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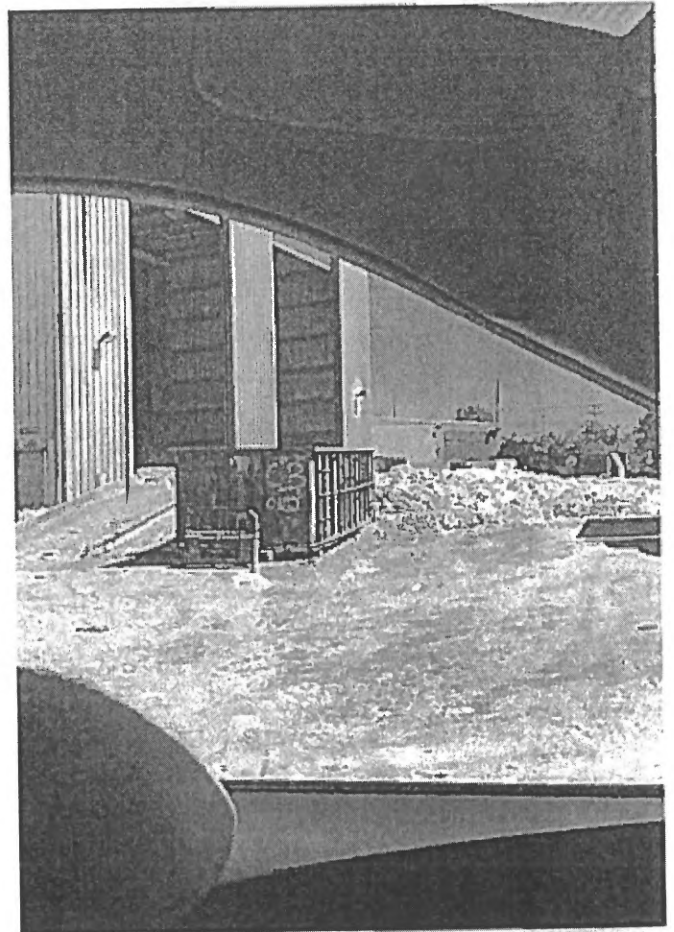
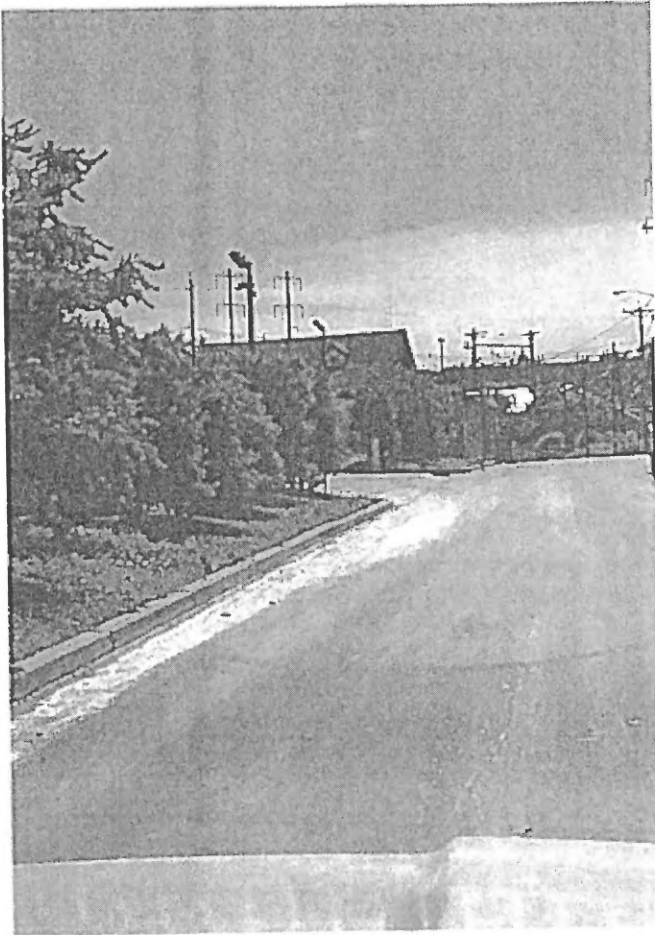


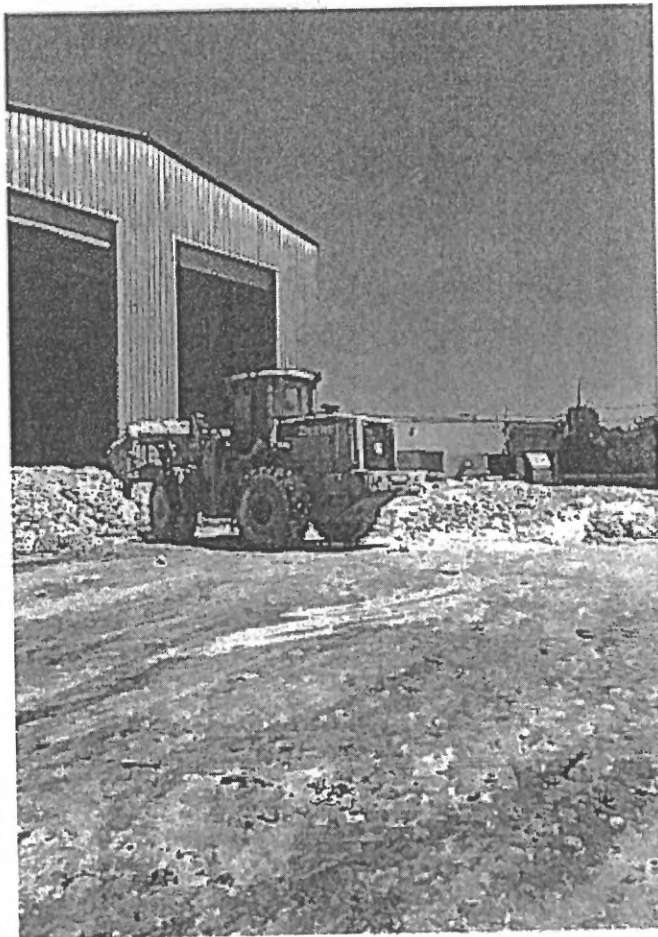
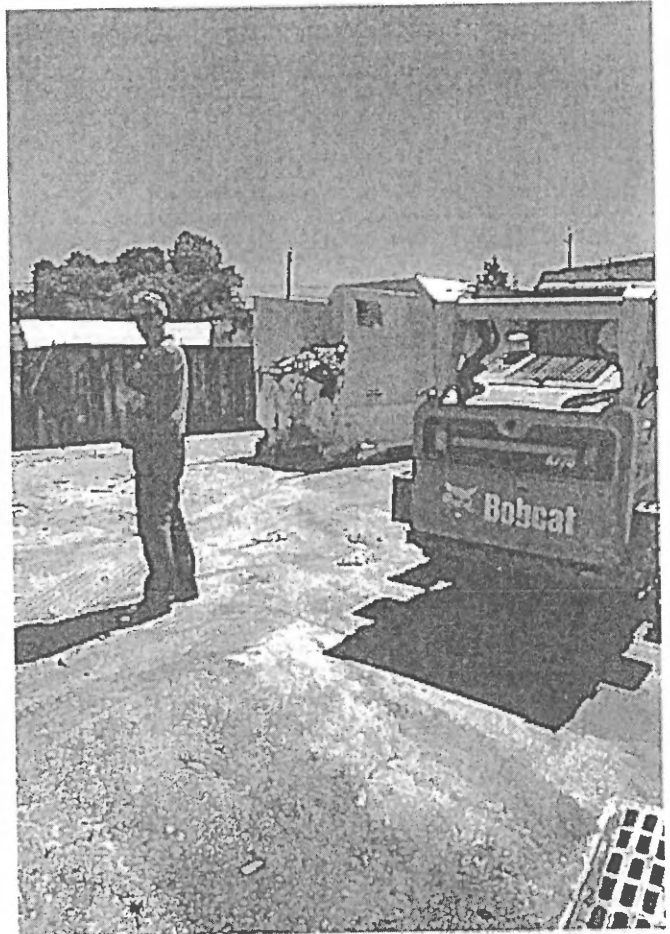
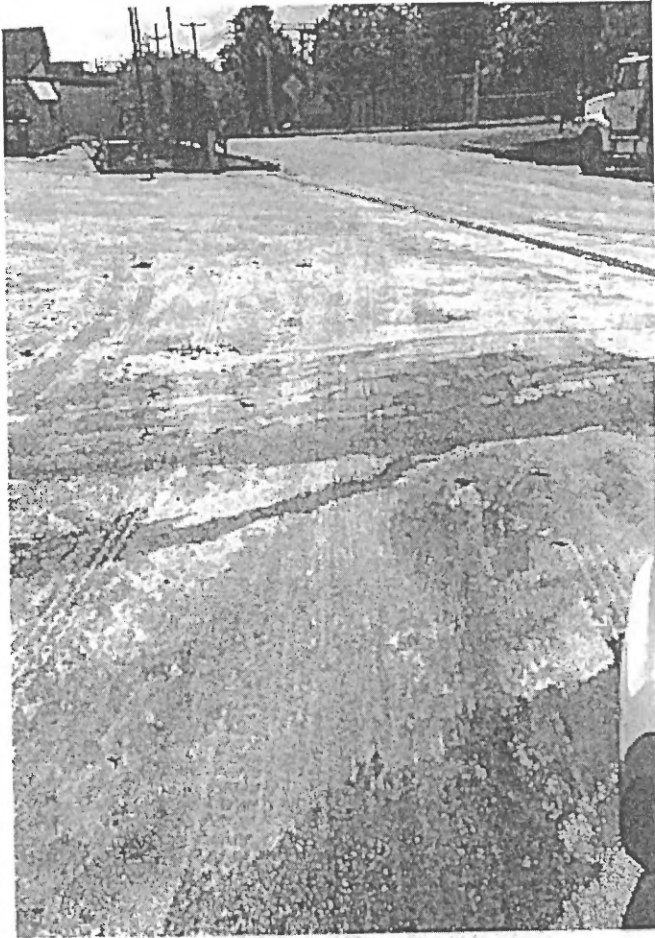
Carlos Rodriguez

Date: 8/3/17









Hudson Regional Health Commission
Meadowview Complex
 595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID:	N/A	HRHC Log:	2017-9387
DEP Site ID:	U2786	Type of Complaint:	DEP Log:
		Water Pollution	17-06-19-0706-25/643384
Location Name:	Wilenta Feed		
Address:	46 Henry St.	City:	Secaucus
Contact Person:	Peter Wilenta, Mike Wilenta	Tel:	(201) 863-3035
Nature of incident:	Caller reported that there is trash and debris in the driveway that runs out into the street		
Complainant Name:	Anonymous	Tel:	
Complainant Affiliation:			
Complaint Address:		City:	Secaucus
Receipt Date:	6/20/2017	Time:	2:20 PM
		Received From:	Dep-Fwe
Investigation Date:	6/20/2017	Time at Site:	12:00pm
Other Agencies:			

Findings:

On 6/20/17, I received a complaint with regard to bakery waste washing into the street and sewers from Wilenta Feed on Henry Street in Secaucus. Wilenta Feed is a company that collects bakery/bread products for production of pig feed. I responded on site shortly after to conduct an investigation with Mike Walker of Hudson Regional Health Commission (HRHC). HRHC received several complaints regarding the same issue on 6/20/17. All complaints were investigated together. Prior to arriving at Wilenta we met with the complainant from HRHC log # 2017-9384 to discuss his concerns. While on site we did observe bread product that was piled outside of the structure and exposed to the elements. We also observed evidence of vehicles tracking residual product off site. The heavy rains experienced in the area the day prior also carried the product into Henry Street and impacted several catch basins. On the south side of Wilenta Feed we observed a retention pond that was a pinkish color and nearly filled to capacity. (see pictures) Wilenta also has several garbage trucks parked along Henry Street that have a strong sour odor. The inside of the trucks were covered in residual bakery waste thus attracting large amounts of birds. Mike Walker and I spoke to both Peter Wilenta and his son Mike Wilenta by phone about the issues that were occurring onsite. Once back at the office I reached out to NJDEP and made a notification to 1-877-WARN-DEP. Mike Walker spoke to Don Hirsch of NJDEP Water Compliance and Enforcement and I emailed over some pictures of our initial investigation.

Results:

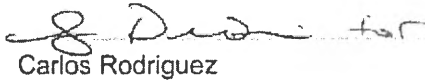
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Investigator Signature:



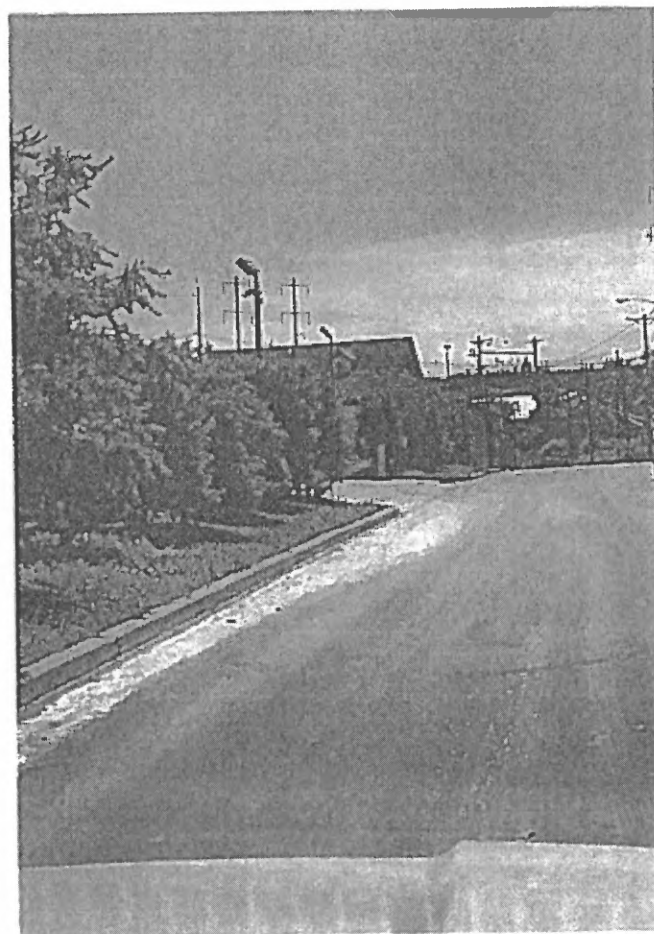
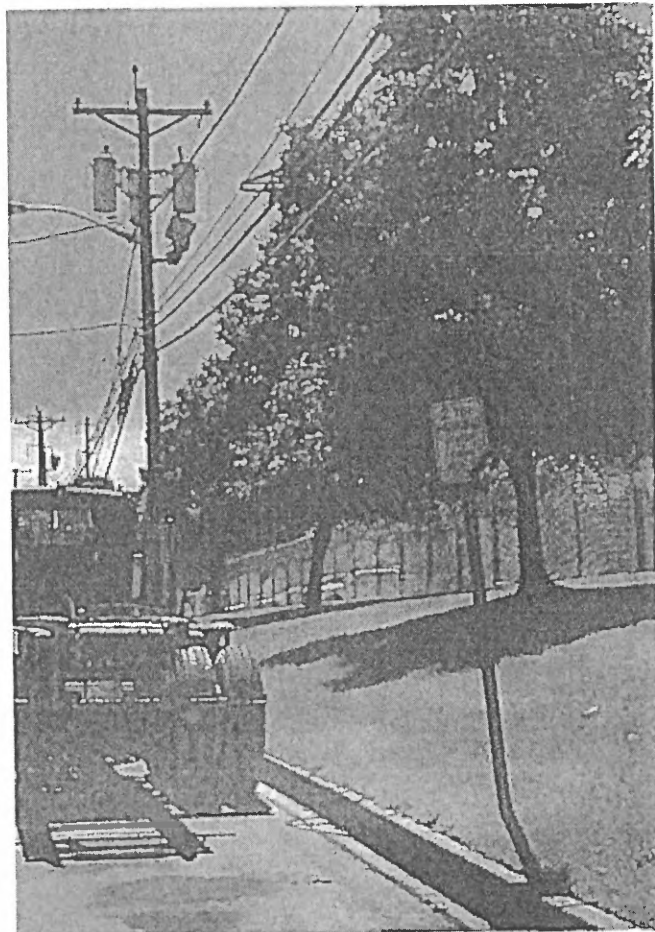
Nick Rivelli

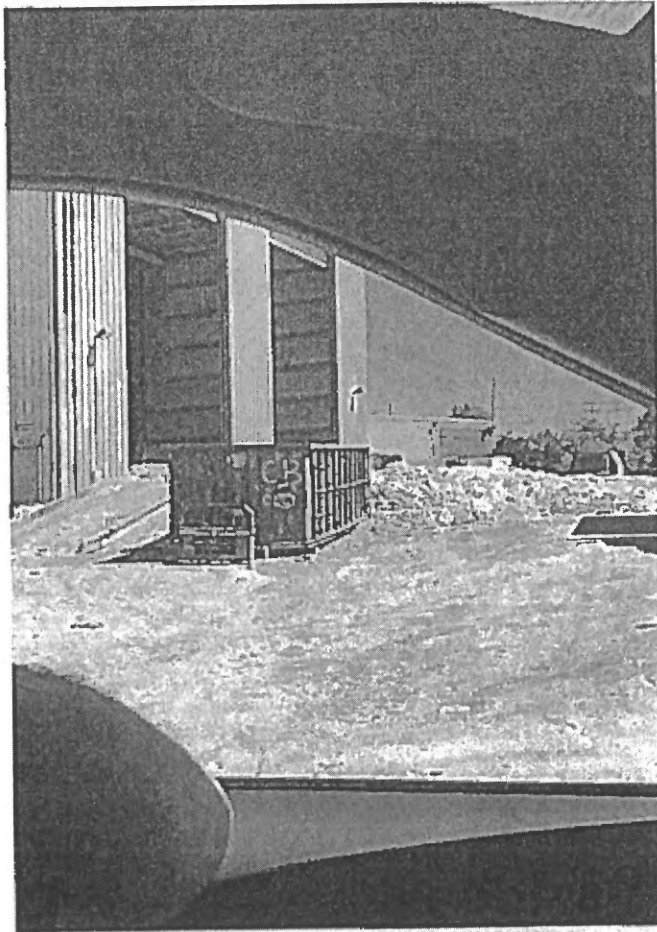
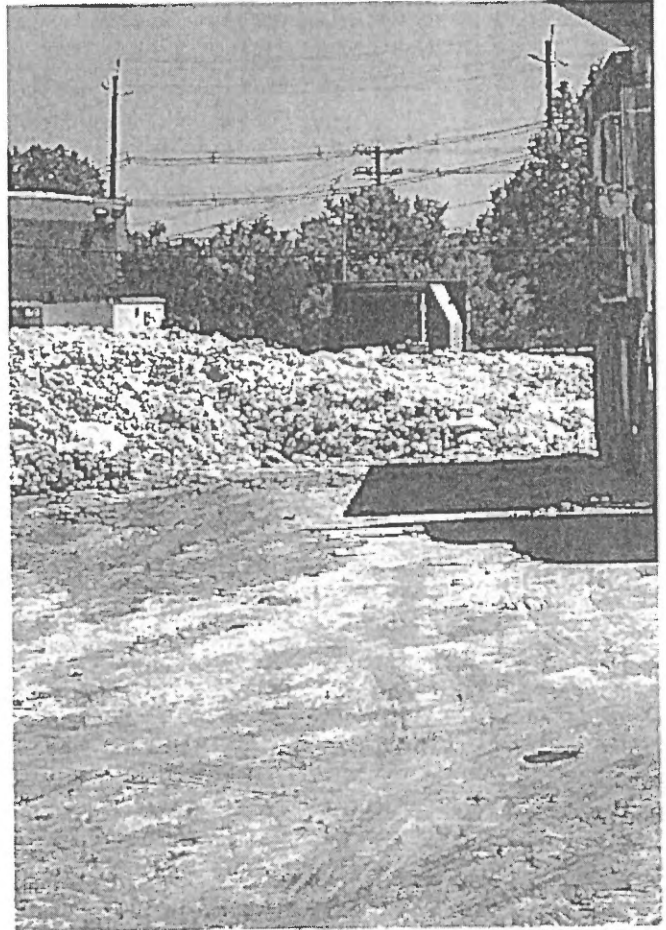
Program Coordinator Review:

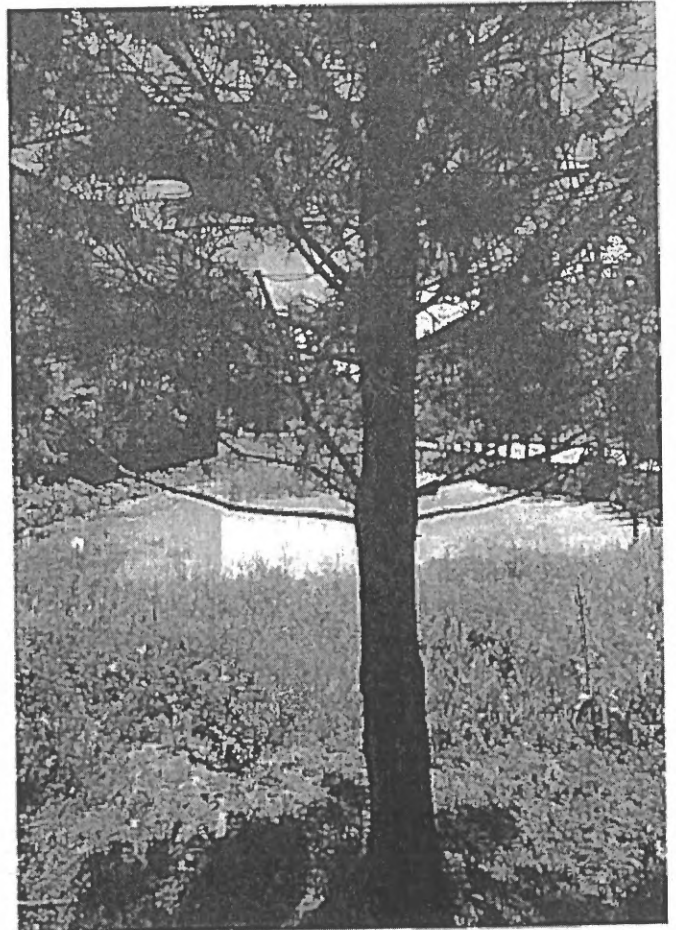
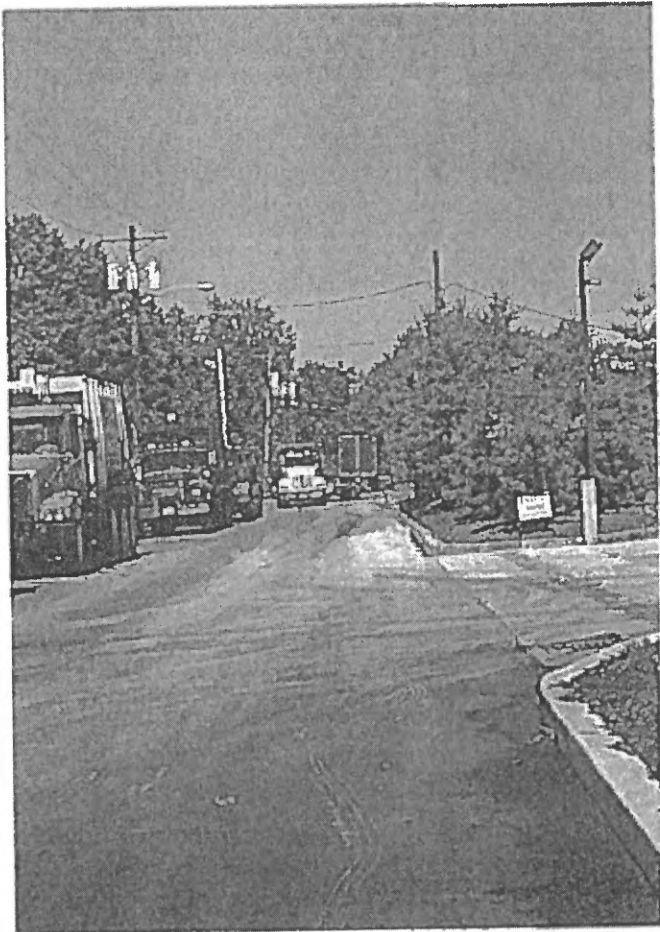
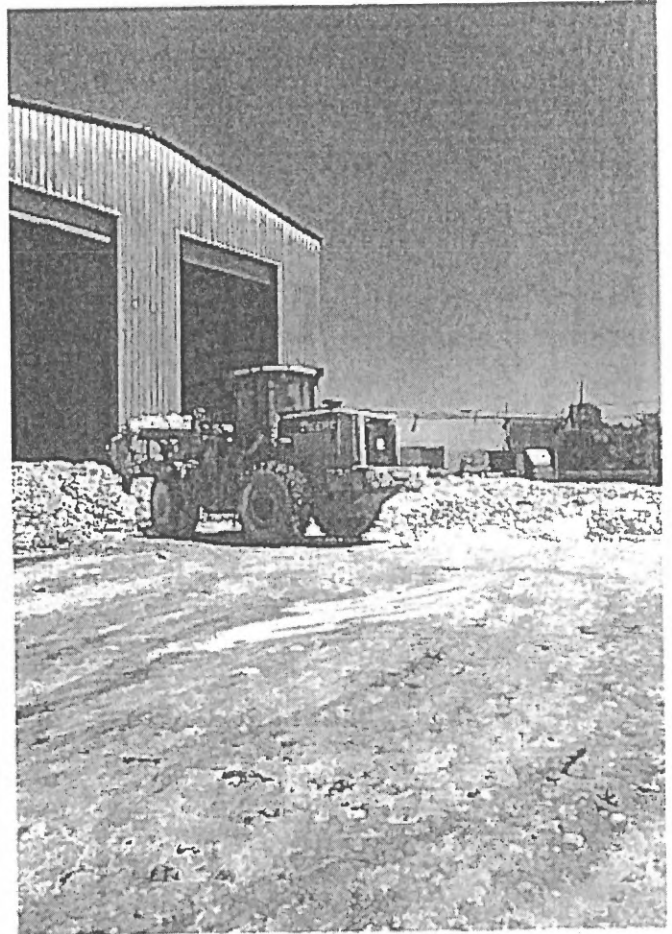
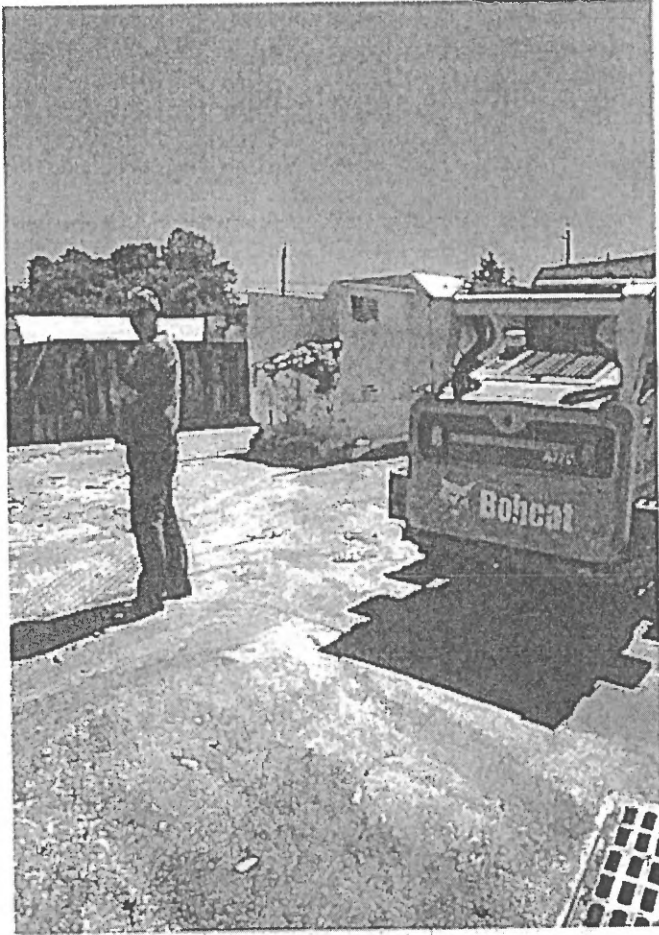


Carlos Rodriguez

Date: 8/3/17







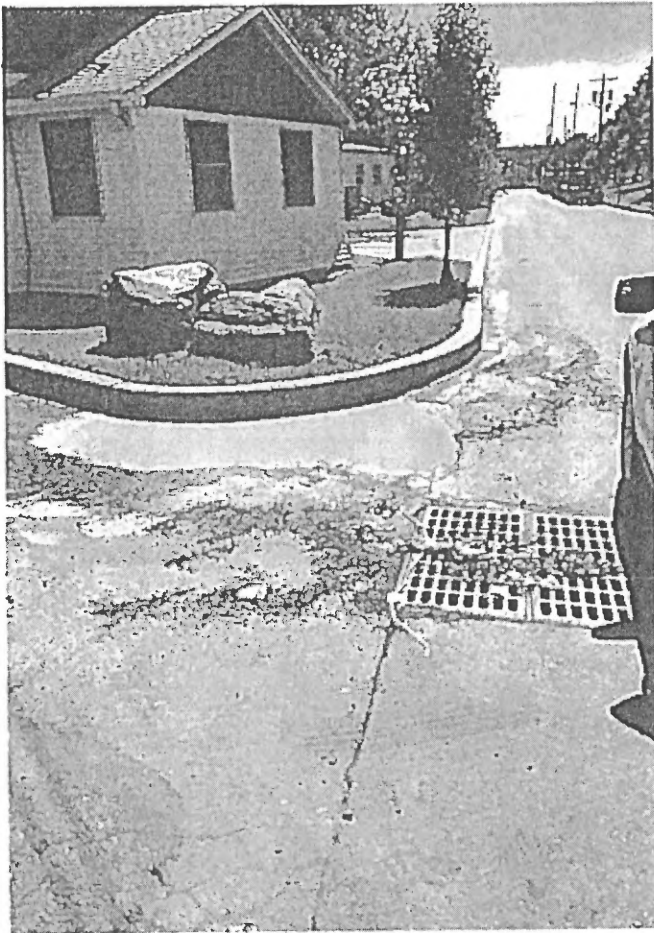


Exhibit 4

Hudson Regional Health Commission
Meadowview Complex
595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

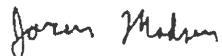
HRHC Facility ID:	NA	HRHC Log:	2018-9683
DEP Site ID:		Type of Complaint:	DEP Log:
		Air	
Location Name:	Welenta Carting		
Address:	46 Henry St.	City:	Secaucus
Contact Person:		Tel:	
Nature of incident:	Very strong odor going on now.		
Complainant Name:	Dennis Apablaza	Tel:	(201) 888-1851
Complainant Affiliation:	resident		
Complaint Address:	66 Henry St.	City:	Secaucus
Receipt Date:	5/7/2018	Time:	1:01 PM
		Received From:	Citizen
Investigation Date:	5/7/2018	Time at Site:	2:30
Other Agencies:			

Findings:

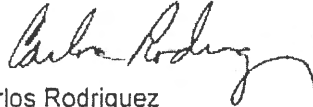
I called the complainant and asked if the odor was still occurring. He said yes but also stated that he was not home. He said the odor has occurred for days and his landlord would sign the statement of complaint for him. I told him he would have to sign it or his landlord would have to send in a separate complaint. I told him I would still walk around the area and talk to the suspected source about the issue. He said he would call again in the morning if he notices the odors. I then walked around the vicinity of the complainants home and quickly determined that Wilenta Feed was causing the odors. They were very strong and smelled like garbage. I saw that there was a large roll off full of vegetables outside the facility and 3 trucks emitting strong garbage odors parked on the road. The trucks appeared to be the main source. I then spoke with the owner Michael Wilenta about the current issue. He said the trucks were empty but the leftover residue stinks. I asked how long they typically sit there. He said until the next day. I also asked him about the vegetables in the roll off. He said they come in daily and they get removed the next morning. I asked him what he could do to try to mitigate the odors. He said he could try to move some things around and see if he can move the vehicles and roll off inside he also said he would look into a deodorizer. I told him to try to fix these things as soon as possible. No further action required by HRHC at this time. - Joren Madsen, EHS

Results: Verified, but No Violation

File: Log

Investigator Signature: 
Joren Madsen

5/16/18

Program Coordinator Review: 
Carlos Rodriguez

Date: 5/16/18

Exhibit 5

Hudson Regional Health Commission
Meadowview Complex
595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: N/A **HRHC Log:** 2018-9803

DEP Site ID: **DEP Log:**

Location Name: Wilenta Feed

Address: 46 Henry Street **City:** Secaucus

Contact Person: Pete Wilenta, Mike Wilenta **Tel:** (201) 863-3035

Type of Complaint: Air

Nature of incident: Very bad odors in the area.

Complainant Name: Luis Medina **Tel:**

Complainant Affiliation:

Complainant Address: 66 Henry Street **City:** Secaucus

Receipt Date: 8/2/2018 **Time:** 12:08 PM **Received From:** Citizen

Investigation Date: 8/2/2018 **Time at Site:** 12:45

Other Agencies: Christine (Secaucus Health Department)

Findings:

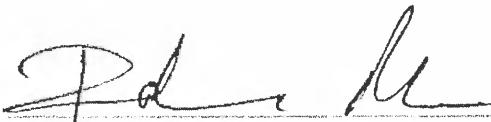
I received the complaint but could not contact the complainant because I did not have the name or phone number however I did have their address. While I was on my way to the location I detected garbage like odor between 2 to 3 in the area. I reached the complainants residence and interviewed both the tenant and landlord. They told me they did not file the complaint but they were complaining about the ongoing odor issue with Wilenta Feed. They were not willing to sign the complainant form. I left my business card with them.

I proceeded to Wilenta Feed facility, located on 46 Henry Street, Secaucus NJ. I detected the same odor that I detected at the complainants residence. I noticed their garbage trucks were parked inside of the facility and the area was tidy. There was a lady that kept sweeping the floor. I met with the office manager, Jennifer Garcia, and notified her about the complainant. She told me the owner was not there so I left my card with her and she told me she will bring up the complainant to the owners attention.

Follow up:

8/2/2018 3:30 PM
 The owner of Wilenta Feed's 'Pete Wilenta' called me. I notified him about the odor complaint and told him that the facility is liable for any off site odor which results in a

resident complaint that is verified by the inspector. An air pollution violation could be issued if the odor is detected at the complainant's property. He told me he is going to do his best to solve the problem. No further action required by HRHC at this time.

Investigator Signature: 
Rachna Misra

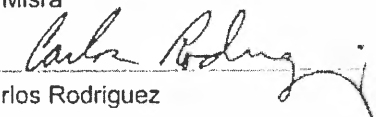
Program Coordinator Review:  Date: 8/7/18
Carlos Rodriguez

Exhibit 6

Hudson Regional Health Commission
Meadowview Complex
595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: NA **HRHC Log:** 2018-9846

DEP Site ID: **DEP Log:**

Location Name: Wilenta Feed

Address: 46 Henry Street **City:** Secaucus

Contact Person: **Tel:**

Type of Complaint: Air

Nature of incident: Extremely bad odors in the area. Mayor would like to make a complaint and investigation.

Complainant Name: Christine **Tel:** (201) 330-2059

Complainant Affiliation: Secaucus Health Dept

Complaint Address: **City:** Secaucus

Receipt Date: 8/27/2018 **Time:** 11:05 AM **Received From:** Health

Investigation Date: 8/27/2018 **Time at Site:** 11:30

Other Agencies:

Findings:

I called Christine and explained to her that the statements of complaint can only be signed by individuals who's property or place of work is being affected by the odor. Other people who do not live or work in the affected area can not sign official statements of complaint. She said she would notify the mayor and their attorney. I then went out to the site and noticed some foul garbage like odors. I spoke to both of the owners of the facility and informed them of odor complaints reported to the mayor's office and that they should do everything they can to mitigate this problem. He said they will be pumping out the retention pond soon and will also be testing another new deodorizer that they just bought. I told them to keep me in the loop with their attempts at fixing this ongoing odor issue. No further action required by HRHC at this time. - Joren Madsen, EHS

Investigator Signature: John Madsen 9/12/18
John Madsen

Program Coordinator Review: Carlos Rodriguez *Date:* 9/12/18
Carlos Rodriguez

Exhibit 7

Hudson Regional Health Commission
Meadowview Complex
595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: NA **HRHC Log:** 2018-9851

DEP Site ID: **DEP Log:**

Location Name: Wilenta Feed

Address: 46 Henry St. **City:** Secaucus

Contact Person: **Tel:**

Type of Complaint: Air

Nature of incident: Foul odor and odor from trash bags.

Complainant Name: Joanna Cordan **Tel:** (201) 538-8001

Complainant Affiliation: called in by Christine.Sec.H.D.

Complaint Address: 245 Secaucus Rd. **City:** Secaucus

Receipt Date: 8/30/2018 **Time:** 11:45 AM **Received From:** GOV

Investigation Date: 8/30/2018 **Time at Site:** 12:00

Other Agencies:

Findings:

I called the complainant to ask about the odor and to see if it was still occurring. She said she didn't know because she only worked for the owner of the building and the tenants of the office building had complained to them. I told her someone has to be on site to verify the odor and to sign a statement of complaint. She said she worked 30 minutes away and was willing to drive out to the site to sign a statement of complaint. I told her it would be better if one of the tenants signed the statement of complaint but they would have to call us and make the complaint themselves. I told her I would first call my supervisor to see if she could sign the statement of complaint because she could possibly be considered an employee at the property. I called my supervisor but they were also unsure if she could sign a statement of complaint and not have it thrown out in court. He told me to call Doug Bannon from the DEP to get further clarification. Doug said that we could have the current complainant sign the statement of complaint but we should only do it as a last resort because it could be thrown out. He said it was a 50/50 chance. I then went out to the site of the complaint and did a 360 around the property. I did not smell any odors until I got right up to the corner of the property that runs next to Wilenta Feed. The odor was only noticeable in a small corner of the parking lot but I did notice a hole in the wall of Wilenta feed with garbage spilling out of it. This was clearly the cause of the mild odors and could potentially be worse under the right environmental conditions. I then called the complainant and told her she would not have to come out because the odors were not severe enough to warrant a violation

and to have the tenants notify us or the DEP directly next time so we can do an official investigation that wont risk being thrown out in court. Secaucus code enforcement was then notified about the hole in Wilenta Feeds wall. They said they would investigate. No further action required by HRHC at this time. - Joren Madsen, EHS

Investigator Signature: Joren Madsen 9/12/18
Joren Madsen

Program Coordinator Review: Carlos Rodriguez *Date:* 9/12/18
Carlos Rodriguez

Exhibit 8

Hudson Regional Health Commission
Meadowview Complex
595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: N/A ***HRHC Log:*** 2019-10332

DEP Site ID: ***DEP Log:***

Location Name: Wilenta Feed Inc.

Address: 46 Henry Street ***City:*** Secaucus

Contact Person: ***Tel:*** (201) 863-3035

Type of Complaint: Air

Nature of incident: Bad odors of something decomposing in the air.

Complainant Name: Dennis Aplaza ***Tel:*** (201) 888-1851

Complainant Affiliation: Resident

Complaint Address: 66 Henry Street ***City:*** Secaucus

Receipt Date: 5/30/2019 ***Time:*** 11:19 AM ***Received From:*** Citizen

Investigation Date: 5/30/2019 ***Time at Site:***

Other Agencies:

Findings:

On May 30, 2019, Hudson Regional Health Commission (HRHC) Inspector R. Romero followed up on a Citizen Complaint reporting bad decomposing-like odor in the air. Romero phoned the Complainant and asked him if he was his property in order to conduct an odor investigation. The Complainant stated that he is not home, however, if needed he can travel back home to meet Romero. Romero explained to the Complainant how an odor investigation is conducted and requested him to be there. The Complainant informed Romero that he will be home within thirty (30) minutes. The Complainant phoned Romero to tell him he got home.

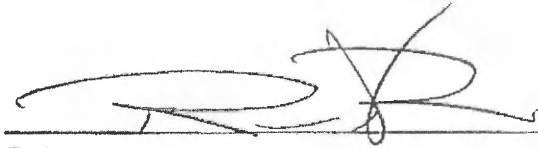
Romero traveled to the Complainant's residence. Romero met with the Complainant. At the time of the interview Romero smelled an intermittent chicken-coup like odor and then it dissipated. Romero informed the Complainant to contact WARN NJDEP and HRHC if he smells the odor again so that it can be investigated. Romero informed the Complainant that he will talk to someone from Wilenta so that they can control any odors that are emanating from their site. Romero walked along Henry Street and around the corner to Secaucus Road and through the parking lot of Car Seat Cover-FH Group (located at 265 Secaucus Road) so that the alleged facility can be investigated in a 360 degree to rule out any other source. While walking through the parking lot of Car Seat Cover-FH Group, Romero noticed a liquid mixture emanating from Wilenta into a catch basin in the Car Seat Cover-FH Group

parking lot. There were birds drinking from the water that was running down from Wilenta. Romero smelled odors on Secaucus Road and near Wilenta.

Romero entered Wilenta and requested to speak to a person in charge. Romero met with Michael Wilenta and informed him of the odor complaint. Mr. Wilenta escorted Romero to the facility and explained the process. Romero explained to Mr. Wilenta that he has to contain any odor within his facility because if someone complains and the odor is verified than it can be a violation. Mr. Wilenta acknowledge.

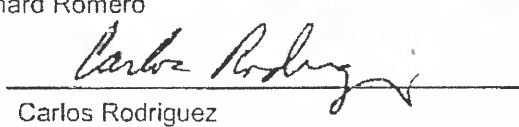
Case closed. No further action required from HRHC. The odor was intermittent and not constant to unreasonably interfere with the enjoyment of life or property.

Investigator Signature:



Richard Romero

Program Coordinator Review:



Carlos Rodriguez

Date: 7/18/19

Exhibit 9

Hudson Regional Health Commission
Meadowview Complex
 595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: _____ **HRHC Log:** 2022-11411

DEP Site ID: _____ **DEP Log:** _____

Location Name: Wilenta Feed

Address: 46 Henry Street **City:** Secaucus

Contact Person: _____ **Tel:** _____

Type of Complaint: Air

Nature of incident: Strong odor coming from Wilenta Feed.

Complainant Name: Anonymous **Tel:** (201) 314-7342

Complainant Affiliation: resident

Complaint Address: anonymous **City:** Secaucus

Receipt Date: 4/20/2022 **Time:** 12:49 PM **Received From:** Citizen

Investigation Date: 4/20/2022 **Time at Site:** 13:00

Other Agencies:

Findings:

I arrived on site and drove around the general area in search of any strange odors. I called the Complainant who wanted to remain anonymous who described a garbage like smell going on for years. I arrived on site and took a tour of the facility and found no violations or items of concern. Although there was food there being processed the smell was contained to that property. I alerted the office staff and left a message for the owner regarding the complaint. No violations were issued. No Further Investigation From HRHC is needed.

Investigator Signature: Oscar Martinez
 Oscar Martinez

Program Coordinator Review: Carlos Rodriguez **Date:** 5/5/22
 Carlos Rodriguez

Exhibit 10

Hudson Regional Health Commission
Meadowview Complex
595 County Avenue, Building 1, Secaucus, New Jersey 07094

Investigation

HRHC Facility ID: NF ***HRHC Log:*** 2023-12710

DEP Site ID: ***DEP Log:***

Location Name: Wilenta Feed, Inc.

Address: 46 Henry Street ***City:*** Secaucus

Contact Person: ***Tel:***

Type of Complaint: Air

Nature of incident: Bad odor located behind AJ's

Complainant Name: Patrick Lopez ***Tel:*** (551) 215-9100

Complainant Affiliation: Resident

Complainant Address: 66 Henry Street ***City:*** Secaucus

Receipt Date: 10/4/2023 ***Time:*** 9:45 AM ***Received From:*** Citizen

Investigation Date: 10/4/2023 ***Time at Site:*** 12:10

Other Agencies:

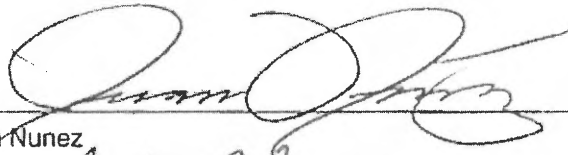
Findings:

Contacted and interviewed complainant by phone. According to the complainant, Wilenta Feed is mixing product on the ground outside of the building with left over greens and seeds for pig feed. According to the complainant, the processing of product outdoors is bringing rats and flies. I explained to the complainant that HRHC would address the odor complaint but the rat and fly problem would have to go through the local health department. I drove to the area of the complaint and met with Mike Wilenta of Wilenta Feed and informed him of the odor complaint. According to Mr. Wilenta, they do not mix any feed outdoors, but with the recent rains they had several boxes with supply broke on the loading area causing a mess that they are still cleaning up. I informed Mr. Wilenta that there is an odor in their facility, but I had not detected it beyond Wilenta's property line. I also addressed the drainage pit next to the Wilenta facility having grease and product, and pumping the water to the storm drain. Again Mr. Wilenta said that with the recent heavy rains they had to pump the water out of the "pond" to reduce the local flooding. I contacted Maria Coppola of the NJDEP Water Department to inform her of my findings and for guidance. Ms. Coppola said under no circumstance is Wilenta Feed allowed to pollute or pump out the drainage pit, which constitutes a violation. Ms. Coppola said she would visit the site and issue Notices of Violation (NOV's) accordingly. The Secaucus Health Department was contacted regarding the rat complaint.

Follow up:

10/6/2023 Met with Maria Coppola, NJDEP, and Natalia of the Secaucus Health Department on site. Ms. Coppola said that Wilenta Feed would need to show a need to pump out the pit and that they notified the department before doing so, and Natalia was going to look at the pesticide records for current treatment of the facility. Ms. Coppola issued a NOV for not notifying the department. Mr. Wilenta was able to show pesticide paperwork and compliance to the Secaucus Health Department. No further action anticipated at this time.

Investigator Signature:



Juan Nunez

Program Coordinator Review:

 Date: 10/22/23

Carlos Rodriguez



