

IN THE CIRCUIT COURT FOR DORCHESTER COUNTY

STATE OF MARYLAND *
DEPARTMENT OF THE *
ENVIRONMENT *
1800 Washington Boulevard *
Baltimore, Maryland 21230, *

Plaintiff, *

v. *

VALLEY PROTEINS, INC. *
Route 2, Box 156 *
Winchester, Virginia 22601 *

Civil Action No. _____

Serve on: *
CSC-Lawyers Incorporating Service *
Company, *
7 St. Paul Street, Suite 820 *
Baltimore, Maryland 21202 *

Defendant. *

* * * * *

**COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF
AND CIVIL PENALTIES**

The State of Maryland, Department of the Environment (“Department”), by and through its attorneys, Brian F. Frosh, Attorney General, and Patricia V. Tipon and Matthew Zimmerman, Assistant Attorneys General, files this Complaint for Preliminary and Permanent Injunctive Relief and Civil Penalties against Defendant, Valley Proteins, Inc. (“Defendant”).

INTRODUCTION

1. This is an action for preliminary and permanent injunctive relief and civil penalties against Defendant for violations of the terms of its water pollution discharge permit and air quality permit, each issued by the Department to Defendant.

2. The Department is asking the Court to enjoin Defendant from further operations that violate permit conditions and to order Defendant to remediate any environmental harm caused by unlawful discharges.

3. The Department is also asking the Court to enter a judgment assessing civil penalties for the conduct alleged in this complaint.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this matter under §§ 1-501 and 4-401 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

5. The Court has personal jurisdiction over the Defendant pursuant to §§ 6-102 and 6-103 of the Courts and Judicial Proceedings Article because the Defendant has an interest in property in Maryland and conducted business in Maryland at all times relevant to the complaint.

6. Venue is proper in this Court pursuant to §§ 6-201 and 6-202 of the Courts and Judicial Proceedings Article because the Defendant engaged in business activities relevant to this complaint in Dorchester County and emitted air pollution and discharged pollution into the waters of the State of Maryland within Dorchester County.

7. The Department brings this action for preliminary and permanent injunctive

relief and civil penalties pursuant to Rule 15-501 through 505 of the Maryland Rules and §§ 2-401, 2-609, 2-610, 9-322, 9-339, and 9-342 of the Environment Article of the Annotated Code of Maryland.

PARTIES

8. Plaintiff is a State agency within the Executive Branch of the State of Maryland. The Secretary of the Environment is responsible for enforcing the provisions of the Environment Article and the rules and regulations adopted under the Environment Article.

9. Defendant Valley Proteins, Inc. is incorporated in the State of Virginia.

10. Defendant owns the Valley Proteins Linkwood facility, which is located at 5420 Linkwood Road, Linkwood, Dorchester County, Maryland.

STATUTORY AND REGULATORY AUTHORITY

11. The Department, under §§ 1-301, 2-103, 2-601 through 2-614, and 9-334 through 9-344 of the Environment Article and the Code of Maryland Regulations (COMAR) at 26.08 and 26.11, is charged with the responsibility of enforcing Title 2 and Title 9, Subtitle 3 of the Environment Article.

12. Notwithstanding certain exemptions, which are not applicable here, § 2-401 of the Environment Article authorizes the Department to adopt regulations that require a permit or registration before a person constructs, modifies, operates, or uses a source that may cause or control emissions into the air.

13. In accordance with § 2-609 of the Environment Article, the Department may

bring an action to enjoin conduct that violates any provision of Title 2, any rule, regulation, or order adopted or issued under Title 2.

14. Pursuant to § 2-610(a), a person who violates any provision of Title 2, or any rule, regulation, or order adopted or issued thereunder, is liable for a civil penalty not exceeding \$25,000, to be collected in a civil action brought by the Department. Each day a violation continues is a separate violation under Title 2.

15. Section 9-322 of the Environment Article prohibits the discharge of any pollutant to waters of the State unless authorized by Title 4, Subtitle 4, or by Title 9, Subtitle 3 of the Environment Article.

16. In accordance with § 9-323(a) of the Environment Article, a person must hold a discharge permit issued by the Department before the person may construct, install, modify, extend, alter, or operate: (1) An industrial, commercial, or recreational facility or disposal system; (2) A State-owned treatment facility; or (3) Any other outlet or establishment if its operation could cause or increase the discharge of pollutants into the waters of the State.

17. In accordance with § 9-342(a) of the Environment Article, the Department is authorized to bring a civil action to address violations of any rule, regulation, order, or permit issued pursuant to Title 9, Subtitle 3.

18. In accordance with § 9-339(a) of the Environment Article, the Department may seek injunctive relief to address violations of any rule, regulation, order, or permit

issued pursuant to Title 9, Subtitle 3.

19. Pursuant to Environment § 9-342.2, a person who discharges a pollutant into waters of the State in violation of § 9-322 or § 9-323 must reimburse the Department for the reasonable costs incurred by the Department in conducting environmental health monitoring or testing, including the cost of collecting and analyzing soil samples, surface water samples, or groundwater samples for the purpose of assessing the effect on public health and the environment of the person's discharge.

20. Pursuant to Environment § 9-339, a court shall grant injunctive relief, without the necessity of showing a lack of adequate remedy at law, upon a showing that a person is violating a provision of Title 9, Subtitle 3.

21. Pursuant to Environment § 9-342(a), a person who violates any provision of Title 9, Subtitle 3, or any rule, regulation, order, or permit adopted or issued under Title 9, Subtitle 3, is liable for a civil penalty not exceeding \$10,000, to be collected in a civil action brought by the Department. Each day a violation occurs is a separate violation under Title 9, Subtitle 3.

DEFINITIONS

22. Section 2-101(b) of the Environment Article defines "air pollution" as the presence in the outdoor atmosphere of any substance that is present in such quantities and is of such duration that it: (1) may be predicted with reasonable certainty to be injurious to property or to human, plant, or animal life; or (2) unreasonably interferes with the proper enjoyment of the property of others because of the emission of odors, solids, vapors,

liquids, or gases.

23. Section 2-101(i) of the Environment Article defines “source” as any person or property that contributed to air pollution.

24. Section 9-101(b) of the Environment Article defines “discharge” as the addition, leaking, spilling, or emitting of a pollutant into waters of the State or the placing of a pollutant in a location where the pollutant is likely to pollute waters of the State.

25. Section 9-101(g) of the Environment Article defines the term “pollutant” to mean: “(1) any waste or wastewater that is discharged from: (i) any publicly owned treatment works; or (ii) an industrial source, or (2) any other liquid, gaseous, solid, or other substances which will pollute any waters of the State.”

26. Section 9-101(h) of the Environment Article defines “pollution” as any contamination or other alteration of the physical, chemical, or biological properties of any waters of the State, including any change in temperature, taste, color, turbidity, or odor of the waters, or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of the State, that will render the waters harmful or detrimental to: public health, safety, or welfare; domestic, commercial, industrial, agricultural, recreational, other legitimate beneficial uses; livestock, wild animals, or birds; or fish or other aquatic life.

27. Section 9-101(l) of the Environment Article defines “Waters of the State” to include both surface and underground waters within the boundaries of the State subject to

its jurisdiction, including that part of the Atlantic Ocean within the boundaries of the State; the Chesapeake Bay and its tributaries; and all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage. In addition, the flood plain of free-flowing waters determined by the Department on the basis of the 100-year flood frequency is included as waters of the State.

28. A “best management practice” or “BMP” is defined by regulation to mean a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities. COMAR 26.17.02.02B(5).

29. “Offal” is defined by regulation as the refuse from slaughtered or salvageable dead animals, crustaceans, or any other animal form, including, but not limited to heads, feet, viscera, hair, blood, feathers, bones, scales, or oils. COMAR 26.11.18.01E.

FACTUAL ALLEGATIONS

30. Defendant owns and operates a poultry rendering facility located in Linkwood, Maryland (“Facility”).

The National Pollutant Discharge Elimination System Permit

31. Defendant was issued a National Pollutant Discharge Elimination System (NPDES) Permit No. 99-DP-0024/MD0003247 (the “Discharge Permit”) with an effective date of March 1, 2001, authorizing the discharge of pollutants under conditions set forth in the Discharge Permit. The Discharge Permit expired on February 28, 2006. A timely

renewal application was submitted, and the terms and conditions of the Discharge Permit continue in effect until the Department issues a new permit.

32. The Discharge Permit authorizes discharges of treated wastewater from Outfall 001 subject to restrictions depending on the pollutant:

- a. Discharges of Total Residual Chlorine (TRC) are limited to a daily maximum of <math><0.1\text{ mg/l}</math>. The discharges of TRC are required to be sampled and monitored five times per week and reported to the Department on monthly Discharge Monitoring Reports (DMRs).
- b. Discharges of Total Phosphorus are limited to a monthly average of 4.1 pounds per day (lbs/day) and daily maximum of 8.2 lbs/day. The discharges of Total Phosphorus are required to be sampled and monitored one time per week and reported to the Department on monthly DMRs.
- c. Discharges of Dissolved Oxygen (DO) must meet a minimum of 5 mg/l. The discharges of DO are required to be sampled and monitored five times per week and reported to the Department on monthly DMRs.
- d. Discharges of pH must meet a minimum of 6.0 standard units and are limited to a daily maximum of 9.0 standard units. The discharges of pH are required to be sampled and monitored five times per week and reported to the Department on monthly DMRs.
- e. Discharges of Fecal Coliform are limited to a monthly geometric mean of

200 Most Probable Number per 100 milliliters (MPN/100 ml). The discharges of Fecal Coliform are required to be sampled and monitored once per week.

- f. Discharges of Biochemical Oxygen Demand (BOD) are limited to a monthly average of 31 lbs/day and a daily maximum of 39 lbs/day between April 1 and November 30 and a monthly average of 90 lbs/day and a daily maximum of 180 lbs/day between December 1 and March 31.
 - g. Discharges of Ammonia, which contains nitrogen and is a sub-part of total nitrogen, are limited to a monthly average of 5.5 mg/l and a daily maximum of 23 mg/l between April 1 and November 30 and a monthly average of 10 mg/l and a daily maximum of 23 mg/l between December 1 and November 31.
 - h. Discharges of Total Nitrogen are limited to a monthly average of 41 lbs/day and a daily maximum of 82 lbs/day between April 1 and November 30.
 - i. Discharges of Total Suspended Solids (TSS) are limited to a monthly average of 31 lbs/day and a daily maximum of 39 lbs/day between April 1 and November. Discharges of TSS are limited to a monthly average of 110 lbs/day and a daily maximum of 220 lbs/day between December 1 and March
33. The discharges of BOD, Nitrogen, Ammonia, and Total Nitrogen and TSS are required to be sampled and monitored one time per week and reported to the

Department on monthly DMRs. The Discharge Permit authorizes discharges to an unnamed tributary to Higgins Millpond and the Transquaking River, which is designated as Use I waters.

34. Special Condition I.F of the Discharge Permit requires the Defendant to operate the Facility by an industrial wastewater operator duly certified by the Maryland Board of Waterworks and Waste Systems Operators under a Class 5 industrial wastewater certification.

35. Special Condition I.R of the Discharge Permit requires the Defendant to implement stormwater prevention pollution plan BMPs to prevent pollutants from being placed in a position likely to pollute waters of the State.

36. General Condition II.A of the Discharge Permit requires the Defendant to summarize its monitoring results each month and to submit them to the Department on DMRs. DMRs must be submitted to the Department no later than the 28th day of the month following the reporting month.

37. DMRs submitted by the Defendant for the period from April 30, 2019, to October 31, 2021, revealed 40 effluent violations that exceeded the effluent limitations in the Discharge Permit for BOD, Ammonia, Total Nitrogen, and Total Phosphorus that occurred over a period of 598 days.

38. The DMRs report discharges of BOD that exceed the daily maximum and monthly average for 346 days with a daily maximum effluent discharge as high as 322

lbs/day, which is more than 726 times the limit. The DMRs report discharges of Ammonia that exceed the daily maximum and monthly average for 95 days with a monthly average effluent discharge as high as 158 mg/l, which is more than 587 times the limit. The DMRs report discharges of Total Phosphorus that exceed the daily maximum and monthly average for 30 days with a daily maximum effluent discharge as high as 17 lbs/day, which is more than 107 times the limit. The DMRs report discharges of Total Nitrogen that exceed the daily maximum and monthly average for 95 days with a monthly average of 175.3 lbs/day, which is more than 114 times the limit.

39. The DMRs report discharges of TSS that exceed the daily maximum for 2 days with a daily maximum effluent discharge as high as 70.9 mg/l , which is more than 34 times the limit. The DMRs report a discharge of Fecal Coliform that exceeds the monthly average for 30 days with a monthly average geometric mean effluent discharge as high as 393.9 mpn/100ml, which is more than 97 times the limit.

40. On January 15, 2019, the Department's inspector conducted an inspection at the Facility. Observations of the swale adjacent to the north side drainage sump indicated the area had been backfilled and the jersey barriers set in place. However, further inspection of the area revealed residual raw poultry product on the backside of the jersey barriers placed in a position likely to pollute waters of the State.

41. On October 25, 2019, at 1:40 pm, a representative of the Defendant reported the unauthorized discharge of 2,000 gallons of partially treated wastewater onto the ground

with an undetermined amount entering the Facility's Outfall 001 effluent channel. The unauthorized discharge resulted from the failure of an eye bolt assembly that held the #3 aeration tanks mechanical aerator cable in place. The Defendant's representative indicated that the mechanical aerator had floated over to the side of the tank and had splashed the contents onto the sidewalk and onto the ground with an unknown volume entering the Facility's Outfall 001 effluent channel. In addition, the Defendant's representative reported observing some accumulation of partially treated wastewater along the edge of the treatment tank.

42. On July 20, 2021, the Department's inspector conducted an inspection at the Facility and reviewed the records and reports of the facility from February 2019 through July 2021. A review of the operators' daily lab sheets showed that TRC exceeded the daily maximum of <0.1 mg/l 370 times for a total of 370 violations.

43. The Defendant also failed to report these 370 exceedances on its monthly DMRs.

44. The Defendant's monthly worksheets also incorrectly recorded BOD for a total of 15 times. The Defendant was advised to correct the DMRs and report the TRC violations, as well as correct the BOD.

45. Also on July 20, 2021, the Department's inspector observed tracking of raw poultry material impacting the drainage swale of the stormwater pond on the west side of the Facility. The Defendant was advised to take corrective action to reduce the impact of

the raw poultry material on the drainage swale of the pond from stormwater runoff.

46. Also on July 20, 2021, the Department's inspector observed residual raw poultry product on the ground along the backside of the jersey barriers located at the north side of the raw poultry product drainage area in a position likely to pollute waters of the State.

47. A follow-up inspection conducted on July 22, 2021, revealed residual raw poultry product on the ground along the backside of the jersey barriers located at the north side of the raw poultry product drainage area in a position likely to pollute waters of the State.

48. On August 2, 2021, and August 11, 2021, Defendant corrected most of the BOD transcription errors.

49. On or about September 24, 2021, the Department's inspector verified that the remaining two BOD transcription errors were corrected.

50. On October 25, 2021, the Department's inspector conducted another follow-up inspection. A review of the Facility's groundwater monitoring well data during the inspection showed that the Facility's nitrate levels in groundwater monitoring well #5 exceeded 10 mg/l for the period from 2014 through September 2021.

51. Also on October 25, 2021, the Department's inspector noted that the Facility failed to operate its wastewater treatment plant with a certified Class 5 industrial wastewater operator for the period from March 2, 2020, through October 31, 2021, as

required by the Discharge Permit.

52. Also on October 25, 2021, the Department's inspector observed residual raw poultry product on the ground along the backside of the jersey barriers located at the north side of the raw poultry product drainage area in a position likely to pollute waters of the State.

53. On October 28, 2021, during a re-inspection of the Facility, the Department's inspector observed raw poultry product on the ground behind the containment wall located at the north side of the raw poultry product drainage area in a position likely to pollute waters of the State.

54. On December 10, 2021, the Department's inspector conducted an inspection at the Facility in response to a complaint regarding water pollution and observed a milky discoloration in the wastewater discharge from Outfall 001 and throughout the tributary that runs west discharging into the Transquaking River. The Department was advised by the Defendant's representative that the Facility had been operating breakpoint chlorination for approximately three weeks to reduce the high levels of ammonia in the wastewater discharge. Grab samples of the discharge collected and analyzed by the Department revealed a pH of 2.61 standard units in violation of the pH limits established in the Discharge Permit. A grab sample collected at Outfall 001 and analyzed by the Defendant's representative revealed a dissolved oxygen concentration of .27 mg/l in violation of the dissolved oxygen limits established in the Discharge Permit. The Department also

collected a grab sample from the unnamed tributary to the Transquaking River and analyzed the sample for pH. Sample results indicated a pH of 2.95 standard units in violation of the pH limits established in the Discharge Permit. Analysis of the dissolved oxygen sample conducted by the Defendant's representative collected from the unnamed tributary to the Transquaking River revealed a concentration of 1.17 mg/l.

55. During the December 10, 2021 inspection the Department also observed an unauthorized discharge of foam and wastewater overflowing the Facility's oxic tank #3. The overflow of material was observed in the berm around the tank with evidence that the overflow carried over onto the adjacent ground placing pollutants in a position likely to pollute waters of the State. Valley Proteins was directed by the Department to cease the unauthorized discharge of wastewater from Outfall 001 in violation of the Discharge Permit and the unauthorized discharge from the oxic tank #3.

56. On December 13, 2021, a follow-up inspection was conducted in response to the December 10, 2021 inspection. During the inspection, the Defendant's representative advised the Department that a spill of approximately 100 gallons of 50% sodium hydroxide occurred around 3:30 pm on December 12, 2021. According to the Defendant's representative, the material was spilled onto the ground in a gravel area north of the chlorine contact chamber. The Department further observed that the area of the spill had been treated with soda ash and Facility employees were working to remove all stone and soil in the contaminated area and replace it with clean stone. However, contaminated

gravel was still piled adjacent to the spillage area in a position likely to pollute waters of the State. In addition, the Defendant's representative advised the Department that a valve in the Facility's diffused aeration blower in oxic tank #5 came off and was releasing air into the atmosphere but had been repaired. Further inspection by the Department showed that a discharge was occurring at the Facility's Outfall 001 location. Testing of a sample collected at the Outfall 001 location by the Department showed that the pH measured 4.88 standard units in violation of the pH limits established in the Discharge Permit.

57. On December 14, 2021, Department inspectors returned to the Facility to conduct a follow-up on the December 13, 2021 inspection and noted the following:

- a. The Defendant's representative was requested to stop discharging at the Outfall 001 location until such time that the permit limitations were met.
- b. The Department collected samples at the Outfall 001 location and the unnamed tributary to the Transquaking River.
- c. The Department also requested the Defendant's representative to develop a plan and process for the operation of the breakpoint chlorination system.
- d. The Defendant's representative advised the Department that cleanup of the overflow that occurred at the oxic tank #3 was still underway. Inspection of the area of the overflow by the Department confirmed that additional cleanup was required.
- e. The Department also observed sludge material adjacent to the Facility's

biological nutrient removal/dissolved air flotation (BNR DAF) unit in a position likely to pollute. The Department requested the Defendant's representative properly clean the area to prevent an unauthorized discharge.

- f. The Department also observed the contaminated material from the December 12, 2021 sodium hydroxide spill being stored on site in a contained area. The Department advised the Defendant's representative to properly dispose of the contaminated material.
- g. The Department observed raw product on the ground adjacent to the jersey barriers at the raw material pad in a position likely to pollute waters of the State. The Department requested that the raw material be properly cleaned up and lime applied.

58. On December 15, 2021, a representative of the Defendant reported an unauthorized discharge of unknown volume of partially treated wastewater from the Facility's oxic tank #3 into the unnamed tributary of the Transquaking River. A letter dated December 18, 2021, from the Defendant's representative stated that the unauthorized discharge was caused by a blockage in the discharge line of the Facility's oxic tank #3. Inspection of the area of the unauthorized discharge by the Department showed that it included sludge material from the Facility's oxic tank #3. Further inspection by the Department showed that the unauthorized discharge impacted the adjacent unnamed tributary of the Transquaking River from the point of entry downstream to the confluence

of the Transquaking River. Upon request by the Department, the Defendant's representative began to remove the contents of the unauthorized discharge from the point of entry into the tributary downstream to the confluence of the Transquaking River at approximately 2:00 p.m. Further inspection by the Department revealed an unauthorized discharge of wastewater from the recycle pumps located at the Facility's chlorine contact chamber. Upon request by the Department, the Defendant's representative stopped the unauthorized discharge. The Department advised the Defendant's representative to apply lime to the area of the unauthorized discharge. Additional inspection showed that the area of the overflow that occurred at the oxic tank #3 on December 10, 2021, was still in the process of being properly cleaned. Further inspection by the Department showed that the sludge material on the concrete pad adjacent to the secondary clarifier and BNR DAF had been cleaned. Inspection at the raw material drainage pad by the Department showed that additional raw material needed to be removed from the ground adjacent to the area. Additional inspection by the Department showed that the contaminated material from the sodium hydroxide spill that occurred on December 12, 2021, was still being stored on site in a containment area.

59. On December 16, 2021, the Department conducted a follow-up inspection to the December 15, 2021 inspection that revealed that an overflow occurred from the Facility's oxic tank #3. This inspection revealed the ongoing removal of the unauthorized sludge material in a position likely to pollute waters of the State from the outfall drainage

swale upstream of the confluence of the Transquaking River. Further inspection revealed evidence of sludge material in the Transquaking River at the confluence of the unnamed tributary to the Transquaking River resulting in the unauthorized discharge of pollutants into waters of the State. Further inspection by the Department in the late afternoon of December 16th revealed the sludge material had been removed from the outfall drainage swale. In addition, sludge removal was observed at the Transquaking River at the confluence of the unnamed tributary to the Transquaking River. Additional inspection revealed that the cleanup operation for the overflow at oxyc tank # 3 was still ongoing.

60. On December 17, 2021, the Department's inspector conducted a follow-up inspection at the Facility and observed raw material on the ground north of the raw material pad that had overtopped the jersey barrier placing pollutants in a position likely to pollute waters of the State.

61. On December 20, 2021, the Department conducted a follow-up inspection in response to the December 16, 2021 inspection. The inspection revealed visible white solids in the unnamed tributary to the Transquaking River downstream to the confluence of the Transquaking River. However, the Facility was not discharging from Outfall 001 during the inspection. The Defendant's representative stated that the discharge had occurred at the Facility's Outfall 001 location on December 18, 2021, and December 19, 2021. In addition, the Defendant's representative stated that the discharge from Outfall 001 was stopped due to elevated ammonia levels in the discharge. The Department advised the

Defendant's representative that the Department's December 16, 2021 inspection and December 17, 2021 inspection documented that the area from the Facility's Outfall 001 to the unnamed tributary to the Transquaking River downstream to the confluence of the Transquaking River had been properly cleaned as a result of the December 15, 2021 unauthorized discharge. Consequently, the Defendant's representative was advised that the visible white solids must have been deposited sometime after those inspections were completed. The Department then requested the Defendant's representative to take immediate action to remove and properly dispose of the solids from the unnamed tributary to the Transquaking River downstream to the confluence of the Transquaking River. Further inspection showed that the Defendant's representative initiated action to remove the solids from the unnamed tributary to the Transquaking River downstream to the confluence of the Transquaking River.

62. On December 21, 2021, reinspection by the Department showed that the solids had been removed from the confluence of the Transquaking River. Further inspection by the Department on December 21, 2021, showed that the remainder of the solids in the unnamed tributary to the Transquaking River were removed during the inspection.

63. On December 27, 2021, the Department's inspector conducted an inspection at the Facility and observed feathers on the ground adjacent to the Facility's raw product drainage pad on the north side of the Facility. In addition, inspection of the drainage swale

for the storm water pond (Outfall 003) also revealed ponded areas dark in color placing pollutants in a position likely to pollute waters of the State. The ponded areas are located in the drainage swale downstream of the Facility's roadway.

64. On January 6, 2022, the Department's inspector conducted an inspection at the Facility and inspected the swale that runs to stormwater pond #4. At the easternmost end of the swale (directly adjacent to the parking area) dark discoloration and a film was observed in the ponded water in the swale placing pollutants in a position likely to pollute waters of the State.

The Air Emissions Permit

65. On or about November 1, 2017, the Department issued Operating Permit No. 019-0029 (the "Operating Permit") to Valley Proteins authorizing the emission of air pollutants from the Facility pursuant to the terms and conditions set forth therein. At all times relevant to this complaint, the Operating Permit governed air emissions from the Facility.

66. The Operating Permit authorizes the operation of one meat-rendering process line at the Facility (Installation no. 019-0029-8-0063), which is to include, in relevant part, a two-stage packed tower scrubber to treat non-condensable and high intensity gases generated during the rendering process.

67. The Operating Permit also authorizes the operation of one feather-rendering process line at the Facility (Installation no. 019-0029-8-0064), which is to include, in

relevant part, a two-stage packed tower scrubber, and a room-air packed tower scrubber to treat non-condensable and high intensity gases generated during the rendering process.

68. Each of the two-stage packed tower scrubbers control emissions from the meat and feather lines contains a primary and a secondary scrubber, operated in series, with each stage independently monitored for its oxygen reduction potential.

69. Part C, Conditions (1) of the Operating Permit requires that Defendant maintain and operate all installations and their associated pollution control scrubber systems (including both two-stage packed tower scrubbers and the room-air packed tower scrubber), to ensure “full and continuous compliance” with the permit conditions.

70. Part C, Condition (3) of the Operating Permit provides that the recorded oxygen reduction potential of each pollution control scrubber system shall not fall below +125 millivolts (mV) based on a three-hour block average.

71. Part E, Condition (6) of the Operating Permit requires the 3-hour block average oxygen reduction potential for each pollution control scrubber system to be “continuously recorded.”

72. Part B, Condition (3)(f) of the Operating Permit requires the Facility to comply with COMAR 26.11.06.09, which prohibits a person from causing or permitting the discharge into the atmosphere of gases, vapors, or odors beyond the property line in such a manner that a nuisance or air pollution is created.

73. Part B, Condition (3)(g) of the Operating Permit requires the Facility to comply with COMAR 26.11.18.05D, which prohibits a person from causing or permitting any offal to be handled, transported, or stored, or to undertake the preparation of any offal without taking reasonable precautions to prevent odors from being discharged. In addition, Part C, Operating Condition (6) of the Operating Permit requires Defendant to take “all reasonable precautions” to prevent nuisance odors from leaving the property on which the Facility operates.

74. On August 17, 2021, the Department performed a compliance evaluation at the Facility.

75. Based on information obtained during the inspection, the Department determined that, between July 1, 2021, and August 22, 2021, the oxygen reduction potential within the two-stage scrubber system controlling the meat rendering process line fell below +125 mV. Specifically, (i) the oxygen reduction potential within the first stage scrubber fell below +125 mV on 16 days; and (ii) the oxygen reduction potential within the second stage scrubber fell below +125 mV on 18 days.

76. Based on information obtained during the inspection, the Department also determined that, between July 1, 2021, and August 22, 2021, the oxygen reduction potential within the two-stage scrubber system and room-air packed tower scrubber controlling the feather rendering process line fell below +125 mV. Specifically, (i) the oxygen reduction potential within the first stage scrubber fell below +125 mV on 21 days; (ii) the oxygen

reduction potential within the second stage scrubber fell below +125 mV on 29 days; and (iii) the oxygen reduction potential within the room-air packed tower scrubber fell below +125 mV on 4 days.

77. On each day between August 15, 2018, and August 17, 2021, Defendant failed to continuously record the oxygen reduction potential for each scrubber, instead monitoring and recording the oxygen reduction potential once every two hours.

78. Between July 25, 2019, and December 5, 2021, the Department received 37 complaints regarding odors emitted from the Facility. The Department received two or more complaints from different individuals on September 14, 2019, and the following days in 2021: August 7, 17, September 14, 22, October 8, 29, November 11, and 21.

79. During inspections on April 16, July 14, August 5, and October 21, 2021, offal-like odor was detected on Linkwood Road, in front of the Facility and beyond the property line.

80. During an inspection on September 22, 2021, an offal-like odor was detected on Red Hill Road and Route 14 (Mt. Holly Road).

81. During an inspection on October 25, 2021, an offal-like odor was detected approximately one mile north of the plant on Linkwood Road.

82. During an inspection, one week prior to the temporary shutdown of the Facility on December 21, 2021, the Department observed raw chicken waste on the ground.

Violations of Title 9 of the Environment Article

COUNT I

(Unauthorized Discharge of Pollutants to Waters of the State – Total Phosphorous)

83. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

84. The Discharge Permit imposes monthly average effluent limits of Total Phosphorous of 4.1 lbs/day. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the monthly average effluent limit during the month of February 2020, totaling 29 days of violation.

85. The Discharge Permit imposes daily maximum effluent limits of Total Phosphorous of 8.2 lbs/day. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the daily maximum one time during the month of February 2020 totaling 1 day of violation.

86. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

87. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any

rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

88. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT II

(Unauthorized Discharge of Pollutants to Waters of the State –Ammonia)

89. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

90. The Discharge Permit imposes monthly average effluent limits of Ammonia of 5.5 mg/l between April 1 and November 30 and a monthly average of 10 mg/l between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the monthly average effluent limit during the months of May 2020, July 2020, and November 2020 totaling 92 days of violation.

91. The Discharge Permit imposes daily maximum effluent limits of Ammonia of 23 mg/l between April 1 and November 30 and 23 mg/l between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the daily maximum effluent limit one time each month during the months of May 2020, July 2020, and November 2020 totaling 3 days of violation.

92. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3

of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

93. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

94. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT III

(Unauthorized Discharge of Pollutants to Waters of the State – Biochemical Oxygen Demand)

95. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

96. The Discharge Permit imposes monthly average effluent limits of BOD of 31 lbs/day between April 1 and November 30 and a monthly average of 180 lbs/day between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the monthly average effluent limit during the months of April 2019, May 2020, July 2020, September 2020, October 2020, November 2020, January 2021, February 2021, August 2021, September 2021, and October 2021, totaling 334 days of violation.

97. The Discharge Permit imposes daily maximum effluent limits of BOD of 39 lbs/day between April 1 and November 30 and 180 lbs/day between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the daily average effluent limit one time each during the months of April 2019, August 2019, May 2020, July 2020, August 2020, September 2020, October 2020, November 2020, February 2021, August 2021, September 2021, and October 2021, totaling 12 days of violation.

98. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

99. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

100. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT IV

(Unauthorized Discharge of Pollutants to Waters of the State – Total Nitrogen)

101. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

102. The Discharge Permit imposes monthly average effluent limits of Total Nitrogen of 41 lbs/day between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the monthly average effluent limit during the months of May 2020, July 2020, and November 2020, totaling 92 days of violation.

103. The Discharge Permit imposes daily maximum effluent limits of Total Nitrogen of 82 lbs/day between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the daily average effluent limit one time each month during the months of May 2020, July 2020, and November 2020, totaling 3 days of violation.

104. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

105. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

106. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT V

(Unauthorized Discharge of Pollutants to Waters of the State – Total Suspended Solids)

107. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

108. The Discharge Permit limits discharges of Total Suspended Solids to a daily maximum of 39 lbs/day between April 1 and November 30. Discharges of Total Suspended Solids are limited to a daily maximum of 220 lbs/day between December 1 and March 31. Based on the DMRs that are required to be submitted by Defendant, Defendant violated the daily maximum one time in the month of August 2021 and one time in the month of September 2021, totaling 2 days of violation.

109. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or

issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

110. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

111. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT VI

(Unauthorized Discharge of Pollutants to Waters of the State – Fecal Coliform)

112. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

113. The Discharge Permit limits discharges to a monthly geometric mean of 200 Most Probable Number per 100 milliliters (MPN/100 ml). Based on the DMRs that are required to be submitted by Defendant, Defendant violated the monthly geometric mean one time in November 2019, totaling 30 days of violation.

114. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or

issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

115. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

116. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT VII

(Unauthorized Discharge of Pollutants to Waters of the State – Total Residual Chlorine)

117. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

118. The Discharge Permit imposes a daily maximum effluent limit of <0.1 mg/l for TRC. Based on a review of the daily lab sheets used to monitor TRC, Defendant violated the monthly average effluent limit at least 370 times since February 28, 2019, totaling 370 days of violation.

119. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or

issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

120. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

121. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT VIII

(Failure to Report Discharges as Required by the Permit – Total Residual Chlorine)

122. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

123. The Discharge Permit requires Defendant to report the discharges on monthly DMRs. Although Defendant monitored TRC on its daily lab sheets, Defendant failed to report the 370 discharges on the DMRs required to be submitted to the Department, in violation of its Discharge Permit.

124. Each failure to report discharges as required by the Discharge Permit constitutes a separate violation of the Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued

by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

125. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

COUNT IX

(Unauthorized Discharge of Pollutants to Waters of the State – Dissolved Oxygen)

126. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

127. The Discharge Permit imposes a minimum concentration of 5 mg/l for Dissolved Oxygen (DO). Based on the Defendant's sampling results, Defendant violated the minimum concentration at least 1 time on December 10, 2021, totaling 1 day of violation.

128. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

129. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

130. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT X

(Unauthorized Discharge of Pollutants to Waters of the State – pH)

131. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

132. The Discharge Permit imposes a minimum concentration of 6 standard units and a daily maximum of 9 standard units for pH. Based on the Department's sampling results, Defendant violated the minimum concentration at least 2 times on December 10, 2021, and December 13, 2021, totaling 2 days of violation.

133. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

134. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

135. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility in unauthorized amounts.

COUNT XI

(Failure to Implement Special Condition R of the Permit)

136. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

137. Pollutants, raw poultry product and contaminated stormwater runoff, were observed in a position likely to pollute on January 6, 2022, and the following days in 2021: July 20, 22, 27; October 25, 28; and December 13, 14, 15, 17, and 27. This constitutes a total of 11 days of violation for failure to implement stormwater pollution prevention plan BMPs to prevent pollutants in a position likely to pollute waters of the State in violation of its Discharge Permit.

138. Under § 9-342 of the Environment Article, a person who violates any provision of the Subtitle or any rule, regulation, order, or permit adopted or issued under the Subtitle is liable for a civil penalty not exceeding \$10,000 to be collected in a civil action brought by the Department. Each day a violation occurs is a separate violation.

139. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

140. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility.

COUNT XII

(Unauthorized Discharge of Pollutants into Waters of the State – Raw Poultry Product, Sludge, Solids, Sodium Hydroxide, and Contaminated Stormwater Runoff)

141. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

142. On July 20, 22 and 27, 2021, October 25 and 28, 2021, December 10, 12, 13, 14, 15, 16, 17, 20, and 27, 2021, and January 6, 2022, Defendant discharged pollutants to waters of the State or placed pollutants in a position likely to pollute waters of the State in violation of § 9-322. This constitutes a total of 15 days of violation.

143. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

144. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

145. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility.

COUNT XIII

(Unauthorized Discharge of Pollutants into Waters of the State – Wastewater)

146. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

147. On October 25, 2019, and December 10, 12, 14, 15, and 16, 2021, Defendant discharged or placed pollutants in a position likely to pollute waters of the State in violation of § 9-322. This constitutes 6 days of violation.

148. Each discharge of pollutants in unauthorized amounts to waters of the State constitutes a separate violation of the Discharge Permit and §§ 9-322 and 9-323 of the Environment Article. Section 9-342 provides that a person who violates Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit adopted or issued by the Department shall be subject to a civil penalty of up to \$10,000.00 per day for each such violation.

149. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any

rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

150. Unless enjoined by an order of the Court, Defendant will continue to discharge pollutants from the Facility.

COUNT XIV

(Failure to Operate the Facility with a Certified Operator in Violation of a Permit)

151. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

152. For the period from March 2, 2020, through October 31, 2021, Defendant failed to operate its facility by a Class 5 certified industrial wastewater operator, in violation of its Discharge Permit.

153. Under § 9-342 of the Environment Article, a person who violates any provision of the Subtitle or any rule, regulation, order, or Discharge Permit adopted or issued under the Subtitle is liable for a civil penalty not exceeding \$10,000 to be collected in a civil action brought by the Department. Each day a violation occurs is a separate violation.

154. Maryland law also authorizes the Court to grant an injunction upon a showing that any person is violating Title 9, Subtitle 3 of the Environment Article or any rule, regulation, order, or Discharge Permit issued by the Department. Md. Code Ann., Envir. § 9-339.

Violations of Title 2 of the Environment Article

COUNT XV

(Failure to Maintain the Minimum Oxygen Reduction Potential in Violation of a Permit)

155. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

156. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

157. Part C, Condition (3) of the Operating Permit requires that the oxygen reduction potential in the two-stage packed tower scrubbers controlling the meat rendering process line and the feather rendering process line shall not fall below +125mV based on a 3-hour block average.

158. The oxygen reduction potential within the first stage of the two-stage scrubber controlling the meat rendering process line fell below +125 mV on the following dates: July 3, 8-10, 13-15, 21-27, 30, 31, and August 17, 2021.

159. The oxygen reduction potential within the second stage of the two-stage scrubber controlling the meat rendering process line fell below +125 mV on the following dates: July 1, 13-15, 20-24, 26, 27, 30, and August 13, 14, and 16-19, 2021.

160. The oxygen reduction potential within the first stage of the two-stage scrubber controlling the feather rendering process line fell below +125 mV on the following dates: July 1-3, 6-10, 12-17, August 2, 13, 14, and 16-19, 2021.

161. The oxygen reduction potential within the second stage of the two-stage scrubber controlling the feather rendering process line fell below +125 mV on the following dates: July 1, 2, 6, 7, 12-17, 19-24, 26-30, August 2, 3, 13, 14, and 16-19, 2021.

162. The recorded oxygen potential within the room-air packed tower scrubber controlling the feather rendering line fell below +125 mV on the following dates: July 26-29, 2021.

163. The foregoing constitutes a total of at least 23 days of violation regarding the two-stage scrubber controlling the meat rendering line, at least 33 days of violation regarding the two-stage scrubber controlling the feather rendering line, and 4 days of violation of the room-air scrubber controlling the feather rendering line, for a cumulative total of at least 60 days of violation for Defendant's failure to comply with Part C, Condition (3) of the Operating Permit.

164. Section 2-401 of the Environment Article authorizes the Department to adopt regulations that require a permit or registration before a person constructs, modifies, operates, or uses a source that may cause or control emissions into the air. Pursuant thereto, the Department has promulgated COMAR 26.11.02.13B(10), which prohibits a person from operating or causing to be operated any rendering cooker or offal dryer without first obtaining and having in effect a state air permit to operate.

165. COMAR 26.11.02.05A prohibits a person from violating any term or condition of a permit issued under COMAR 26.11.02.

166. Under § 2-610(a) of the Environment Article, a person who violates any provision of Title 2, or any rule or regulation issued thereunder, is liable for a civil penalty up to \$25,000 per violation. Each day a violation continues is a separate violation.

COUNT XVI
(Failure to Record Oxygen Reduction Potential in Violation of a Permit)

167. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

168. Part E, Condition (6) of the Operating Permit requires that the three-hour block average oxygen reduction potential “shall be continuously recorded” for each pollution control scrubber system, which includes the Feather line system (venturi scrubber and 2-stage packed tower scrubber), the Meat line system (venturi scrubber and 2-stage packed tower scrubber), and the Room-air packed tower scrubber system.

169. Between August 15, 2018, and August 17, 2021, Defendant failed to continuously record the oxygen reduction potential for each scrubber. This constitutes a total of 1,099 days of violation for Defendant’s failure to comply with Part E, Condition (6).

170. Section 2-401 of the Environment Article authorizes the Department to adopt regulations that require a permit or registration before a person constructs, modifies, operates, or uses a source that may cause or control emissions into the air. Pursuant thereto, the Department has promulgated COMAR 26.11.02.13B(10), which prohibits a person

from operating or causing to be operated any rendering cooker or offal dryer without first obtaining and having in effect a state air permit to operate.

171. COMAR 26.11.02.05A prohibits a person from violating any term or condition of a permit issued under COMAR 26.11.02.

172. Under § 2-610(a) of the Environment Article, a person who violates any provision of Title 2, or any rule or regulation issued thereunder, is liable for a civil penalty up to \$25,000 per violation. Each day a violation continues is a separate violation.

COUNT XVII
(Failure to Use Reasonable Precautions to Prevent Odors in Violation of COMAR 26.11.18.05 and a Permit)

173. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

174. Part B, Condition (3)(g) of the Operating Permit, incorporating COMAR 26.11.18.05D, prohibits the handling, transporting, or storing of any offal without taking reasonable precautions to prevent odors from being discharged.

175. During inspections on April 16, July 14, August 5, and October 21, 2021, an offal-like odor was detected on Linkwood Road, directly in front of the Facility.

176. During an inspection on September 22, 2021, an offal-like odor was detected on Red Hill Road and Route 14 (Mt. Holly Road).

177. During an inspection on October 25, 2021, an offal-like odor was detected approximately one mile north of the plant on Linkwood Road.

178. On or about December 17, 2021, offal, in the form of raw chicken waste, was handled, transported, prepared, or stored, absent reasonable precautions to prevent odors from being discharged.

179. On or about December 27, 2021, offal, in the form of chicken feathers was handled, transported, prepared, or stored, absent reasonable precautions to prevent odors from being discharged.

180. Upon information and belief, the foregoing constitutes a total of 7 days of violation for Defendant's failure to comply with COMAR 26.11.18.15D and Part B, Condition (3)(g) of the Operating Permit.

181. Section 2-401 of the Environment Article authorizes the Department to adopt regulations that require a permit or registration before a person constructs, modifies, operates, or uses a source that may cause or control emissions into the air. Pursuant thereto, the Department has promulgated COMAR 26.11.02.13B(10), which prohibits a person from operating or causing to be operated any rendering cooker or offal dryer without first obtaining and having in effect a state air permit to operate.

182. COMAR 26.11.02.05A prohibits a person from violating any term or condition of a permit issued under COMAR 26.11.02.

183. Under § 2-610(a) of the Environment Article, a person who violates any provision of Title 2, or any rule or regulation issued thereunder, is liable for a civil penalty up to \$25,000 per violation. Each day a violation continues is a separate violation.

COUNT XVIII
(Creation of Nuisance Odors in Violation of COMAR 26.11.06.09 and a Permit)

184. The Department realleges and incorporates by reference the allegations of all prior paragraphs of this complaint.

185. Part B, Condition (3)(f) of the Operating Permit, incorporating COMAR 26.11.06.08, prohibits a person from causing or permitting the discharge into the atmosphere of gases, vapors, or odors beyond the property line in such a manner that a nuisance or air pollution is created.

186. Between July 25, 2019, and December 5, 2021, the Department received 37 complaints regarding odors emitted from the Facility, with some complaints occurring on the same day. On September 22, 2021, the Department confirmed an offal-like odor on Red Hill Road and Route 14 (Mt. Holly Road), beyond the Facility's property line and consistent with three public complaints. This constitutes a total of 26 days of violation for Defendant's failure to comply with COMAR 26.11.06.09 and Part B, Condition (3)(f) of the Operating Permit.

187. A person who violates any rule or regulation issued pursuant to Title 2 of the Environment Article is liable for a civil penalty up to \$25,000 per violation. Md. Code Ann., Envir. § 2-610(a). Each day a violation continues is a separate violation.

REQUEST FOR RELIEF

WHEREFORE, the Department respectfully requests that this Court grant the following relief against the Defendant:

- A. Enter a preliminary and permanent injunction, pursuant to § 9-339 of the Environment Article and traditional common law principles, ordering Defendant to cease discharging any pollutants in violation of their NPDES/State discharge permit issued by the Department and require Defendant to take all steps necessary to come into permanent and consistent compliance with all requirements of its Permit, including but not limited to the following:
- a. Require Defendant to report discharges on its monthly DMRs;
 - b. Require Defendant to competently operate its wastewater treatment facility with duly certified operators and superintendents;
 - c. Require Defendant to implement stormwater pollution prevention plan BMPs to prevent pollutants in a position likely to pollute waters of the State.
 - d. Require Defendant to conduct an engineering study of the Facility's wastewater treatment process that will identify the causes of the effluent violations and other unauthorized discharges, create standard operating procedures for proper monitoring and reporting of parameters, recommend improvements to the Facility in order to operate in compliance with its Permit, and provide a plan and schedule for implementation of the improvements.

- B. Enter judgment against the Defendant for response costs incurred by the Department for the sampling of discharges as a result of Defendant's noncompliance with the terms of its Discharge Permit.
- C. Enter a Judgment against Defendant for civil penalties not exceeding \$10,000 per violation, per day, for violations of Title 9, Subtitle 3;
- D. Order Defendant to evaluate potential sources of odors and air pollution generated by the Facility's processes and detectable beyond the Facility property line, including wastewater processing operations, sludge handling, material transport, and material storage throughout the property, and implement all reasonable precautions to prevent odors from being discharged;
- E. Enter a Judgment against Defendant for civil penalties not exceeding \$25,000 per violation, per day, for each violation of Title 2 of the Environment Article, as set forth herein; and
- F. Grant such other relief as this Court deems just and equitable.

Respectfully submitted,

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