

PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Formal Complaint and Petition For *Ex Parte* Emergency Relief Under 52
Pa. Code § 3.2 And Interim Emergency Relief Pursuant To Sections 52
Pa. Code § 3.6. to 3.12**

1. COMPLAINT INFORMATION

Birdsboro Kosher Farms Corp.;
Birdsboro Kosher Meats, LLC; and
PWCH LLC
C/O Joseph A. O’Keefe, Esq.
Of Counsel, Sanders Law Firm,
31 N. Tejon Street,
Colorado Springs, Co. 80903
Joe@okpsventurellc.com
Phone: (719) 630-1556
Facsimile: (719) 630-7004

2. TYPE OF UTILITY:

Water and Wastewater

3. COMPLAINT:

AND NOW COMES, Birdsboro Kosher Farms, Corp; Birdsboro Kosher Meats, LLC, and Nassau Properties, Inc, seeking both *ex parte* emergency relief under 52 Pa. Code § 3.2 and interim emergency relief pursuant to Sections 52 Pa. Code § 3.6. to 3.12 of the Commission’s Regulations AND such permanent prospective and remedial relief as is deemed necessary and proper.

A. PAWC is a municipal water and wastewater authority serving customers in Exeter Township area and surrounding communities. As is relevant herein, PAWC provided water and sewer service to 1100 Lincoln Blvd., Birdsboro, Berks County, Pennsylvania (the “Premises”).

4. FULL NAME OF UTILITY COMPANY:

Pennsylvania American Water Company
 (“PAWC”)

A. Contained within that location are three (3) separate and distinct entities:

- ï Birdsboro Kosher Farms Corp;
- ï Birdsboro Kosher Meat, LLC; and,

ï PWCH LLC;

B. Birdsboro Kosher Farms Corp. (“BKF”) is the producer of Kosher food products and operates the processing facility located at the Premises.

C. Birdsboro Kosher Meat, LLC, (“BKM”) is a separate and distinct Pennsylvania Corporation which operates out of the Premises and is primary responsible for the import and export of Kosher products.

D. PWCH LLC. (“PWCH”), is the landowner, Lessor to BKF and BKM.

E. On or about December 18, 2020, PAWC sent the attached, non-conforming “Notice of Violation and Compliance Directive” to Birdsboro Kosher Farm Corp. (“BKF”), claiming that testing had revealed BKF was exceeding the permitted discharge limits (Exhibit A hereto).

F. On or about January 15, 2021, BKF timely served PAWC with a Notice of Denial and Objections (Exhibit B hereto) outlining that PAWC’s testing results were skewed.

G. PAWC’s testing results are skewed because they intentionally chose to test on a Friday – when it is known the Kosher Plant is not processing, and at a location which catches the prohibited materials. In other words, they went to a standing cistern of water to intentionally obtain more dramatic results than what the plant is actually producing.

H. Thereafter, the parties went back and forth as to testing but PAWC did not pursue its claims further.

I. Next, after having sent BKF bills it thought it was timely meeting for the account of the potable water (discussed below), PAWC – on April 30, 2021, issued a shut off notice (attached) and also advised they had already shut off potable water, even though the outstanding Potable water bill was in fact fully paid up to date. A bill of approximately \$40,000 was mistakenly posted to this account by PAWC’s own admission, and Birdsboro requested that the error be fixed and potable water be restored immediately. PAWC refused, and instead informed regulatory agencies that BKF had no potable approved water on site, which resulted in a fine we feel that was used as a way to bully BKF to pay disputed amounts on another account (we reach that conclusion since BKF called PAWC and informed them that the potable bill was an error, PAWC responded that since they feel BKF owes PAWC a balance on another account they will not fix the error and BKF’s only option was to pay in full all accounts, even if disputed, then only will the potable water be restored). PAWC were also intending to return to block the sewage pipe (Exhibit C hereto).

J. To restore water service and avoid the blockage of their sewage line, PAWC informed BKF that they needed to remit \$246,432.39 In addition to the approximately \$40,000 bill that was billed in error on the potable water account immediately and then \$75,000 per month.

K. PAWC’s amounts owed and billings were timely challenged by BKF (Exhibit D hereto) and PAWC ultimately admitted several significant and confusing mistakes (Exhibit E hereto) but, nonetheless, refused Terms other than as outlined above.

- L. BKF learned that PAWC had rejected its offer of Terms when one of its employees arrived to announce they were plugging the sewer pipe (Exhibit F hereto).
- M. When PAWC – without Notice, shut off the water at the Premises, it switched to an on-site well that it has maintained over the years since connecting to the Municipal System.
- N. PAWC responded by contacting every regulatory entity it could to advise BKF had been disconnected from its system – resulting in BKF being fined (Exhibit G hereto).
- O. When PAWC – with an hour’s Notice and without any response to BKF’s offer of Terms, clogged the sewer pipe with a Balloon, BKF restored flow to holding tanks it has maintained on the Premises so that its operations could continue.
- P. PAWC – again, called every regulatory entity it could (and scoured neighboring properties and BKF’s pipe looking to find BKF “cheating”) resulting in several contacts and disruptions of BKF’s operations.
- Q. BKF’s costs of processing have increased over seven *(7) fold because of PAWC’s actions and, unchecked, will irreparably damage BKF.
- R. Due to the Pandemic, BKF’s business is 65% of what it was prior, it has reduced its’ workforce by over a third and its operating at 50% of pre-Pandemic Capacity and PAWC was advised of this all.
- S. It is telling that at the time BKF accrued a Surcharge many times higher than it had ever received prior (because of where the test samples were being pulled) when *its’ facilities were either shut down or operating a skeleton shift of production*. It is more telling that PAWC – in receipt of BKF’s formal response, failed to afford BKF the opportunity of any independent forum (such as this one) to present the merits of its claims, opting instead to (over acknowledged billing issues) avail itself of self-help.
- T. PAWC – by admission, repeatedly failed to timely and properly bill BKF because of its internal issues, instead dumping an inflated six-figure bill on them after months of non-billing.
- U. PAWC has feigned a fundamental misunderstanding of the systems BKF has in place, they do work, and, in the history of the plant, BKF NEVER before had numbers such as those PAWC claimed.
- V. PAWC’s testing was intentionally aimed at churning surcharge monies in violation of permitted rates.
- W. BKF was improperly billed by PAWC, resulting in violations of Rates allowed by the governing authorities and its tactics herein are palpably aimed at Bullying BKF into remitting said usurious rates it has rigged tests to justify.
- X. Moreover, PAWC has exceeded its authority and right by contacting various regulatory authorities in an attempt to shut BKF’s production down.

Y. BKF (per the attached Declaration) will not survive unless and/or except this Authority intervenes and requires PAWC to restore services (at a fair and lawful rate) immediately.

Z. Applicable rules and regulations are clear, this is the forum for such and PAWC has intentionally avoided it – while imitating it and its authority (see Exhibit A), and, in fact, violated various applicable rules and regulations including, but not limited to:

- ï Allowable Rates Charged;
- ï Mandated Procedures to be followed;
- ï Proper billing practices;
- ï Notice to be afforded;
- ï Good Faith and Fair Dealing; and,
- ï Due Process and/or fair opportunity.

AA. The grant of interim emergency relief herein is necessary and proper. See, 52 Pa. Code § 3.6.

BB. PAWC’s conduct, as outlined herein, raises substantial legal questions and, therefore, the grant of interim emergency relief herein is proper. *Core Communications, Inc. v. Verizon Pennsylvania, Inc. and Verizon North LLC*, Docket No. P-2011-2253650 (Order entered September 23, 2011) (*Core*); *Level 3 Communications, LLC v. Marianna & Scenery Hill Telephone Company*, Docket No. C-2002-8114 (Order entered August 8, 2002) (*Level 3*); *cf. T.W. Phillips Gas and Oil Company v. The Peoples Natural Gas Company*, 492 A.2d 776 (Pa. Cmwlth. 1985) (*T.W. Phillips*).¹

CC. PAWC’s conduct is in bad faith, unreasonable, inequitable, and unjust. See 66 Pa. C.S. § 508; *AT&T v. Pa. PUC*, 709 A.2d 980, 989 (Pa. Cmwlth. 1998) (“the General Assembly has specifically told the Commission that when any terms or conditions of an agreement are ‘unjust, unreasonable or inequitable, or otherwise contrary or adverse to the public interest and general well-being of the Commonwealth,’ it shall determine the terms and conditions that will rectify that situation”); *Octoraro Railway, Inc. v. Pa. PUC*, 482 A.2d 278 (Pa. Cmwlth. 1984) (since the Commission has power to modify contracts under Section 508 of the Code, the ALJ has the authority to rule on the validity of agreements between public utilities and municipal corporations).

DD. Issues concerning the reasonableness, adequacy, and sufficiency of public utility service, be they contractual or otherwise, are squarely within the Commission’s jurisdiction. 66 Pa. C.S. §§ 1501 and 1505; *Disanto v. Dauphin Consolidated Water Supply Co.*, 291 Pa. Super. 440, 436 A.2d 197 (1981).

EE. In *Fitzgerald v. Mountain Laurel Racing, Inc.*, 607 F.2d 589, 598 (3d Cir. 1979), the court determined that where a licensed horse racing trainer and driver, suffered irreparable

¹ In reviewing the issuance of an injunction, the Commonwealth Court held that the moving party was not required to demonstrate its absolute right to relief on the underlying claim where the other elements for injunctive relief were satisfied. The Court held that “. . . if the other elements of a preliminary injunction are present, and the underlying claim raises important legal questions, the plaintiff’s right to relief is clear.” *T.W. Phillips* at 781 (emphasis supplied).

injury to his business and reputation after being evicted from defendant's race track, which "had the extreme effect of barring him from any activity at the track."

FF. Herein, BKF will be shut down and bankrupt within weeks except and unless the Commission intervenes.

GG. In *Newlife Homecare Inc. v. Express Scripts*, No. 3:07 cv 761, 2007 WL 1314861 (M.D. Pa., May 4, 2007), the plaintiff moved for a temporary restraining order, asking the court to order the defendant to pay plaintiff over \$1.6 million that plaintiff claimed it was owed. Noting that "the law requires convincing proof that a business will in fact cease to exist or be forced into bankruptcy for such an eventuality to be considered irreparable harm," *id.* at *5, the district court found that plaintiff had presented "concrete evidence that it will in fact be forced out of business and/or into bankruptcy due to the defendant's failure to release payments," *id.* at *6, to the plaintiff and, thus had established irreparable harm. Further, as herein the district court considered that the plaintiff company was a vital supplier, which factor bolstered the court's finding of irreparable injury.

HH. In *Goldhaber v. Foley*, 519 F.Supp. 466 (E.D.Pa. 1981), the district court found that the plaintiffs had established irreparable injury since they were being denied their public employment positions without clear evidence that they would have a damages remedy available to them if they succeeded on the merits. Herein, Complainants have equally been denied due process.

II. Moreover, compliments of PWAC's campaign against BKF, the Pennsylvania Department of Environmental Protection has plainly indicted that the best course of action is for BKF to be reconnected to the system (Exhibit H hereto).²

JJ. Herein, while remitting fair (approved) rates, BKF merely needs reconnection of services pending completion of its anticipated on-site system.

² "Emergency" is defined in the Commission's Regulations as "[a] situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting." 52 Pa. Code § 3.1. *Petition of Direct Energy Services, LLC for Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company*, Docket No. P-00062205 (Order entered April 20, 2006) (large rate increases did not constitute a clear and present danger to life or property); *Petition of National Fuel Gas Distribution Corp. for Emergency Order Granting a Temporary Waiver of Certain Tariff Rules Related to Transportation Service*, Docket Nos. P-961022 and P-961021 (Order entered March 19, 1996) (threat of depletion of gas stores in unusually cold conditions constituted a clear and present danger to life or property). Herein, the Pennsylvania Department of Environmental Protection has plainly indicated there is a clear and present danger to life or property and that the best course of action is reconnection.

5. RELIEF

Complainants respectfully requests that the Commission take the following actions:

- A. Immediately require PAWC to restore services to BKF pending a resolve of money dispute between the parties³
- B. Provide a hearing on PAWC’s policies and practices as outlined above
- C. Independent determination of the lawfulness and legitimacy of PAWC’s testing and attenuating surcharges
- D. Damages in the form of Off-Set of legitimate monies BKF owes PAWC, and
- E. Such other relief as deemed necessary and proper

6. VERIFICATION AND SIGNATURE

Verification:

I Solomon Wieder, Director of operations of BKF, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information, and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Pa. C.S. § 4904(relating to unsworn falsification to authorities).

/s/ 

(Signature)

May 27, 2021
(Date)

7. LEGAL REPRESENTATION

Joseph A. O’Keefe, Esq.
(Pa. Id. 77068)
(Co. Id. 52229),
Of Counsel to the Sanders Law Firm,
31 N. Tejon Street,
Colorado Springs, Co. 80903
Joe@okpsventurellc.com
Phone: (719) 630-1556
Facsimile: (719) 630-7004

³ Please note, Complainants have already begun the process of designing an on-site system and hopes to be entirely independent of PAWC’s services within 12-18 months.



NOTICE OF VIOLATION AND COMPLIANCE DIRECTIVE

PERMITEE/RESPONDENT: Birdsboro Kosher Farms Corp.
("Permittee")
1100 Lincoln Road
Birdsboro, PA 19508

CONTACT PERSON: Art Heckman

ISSUANCE DATE: December 18, 2020

Re: Wastewater Discharge Permit No. EX008S
Notice of Violation and Compliance Directive

LEGAL AUTHORITY

Pennsylvania-American Water Company ("PAWC") administers the Industrial Pretreatment Program (Exeter) ("IPP") for the area served by the Exeter Wastewater Treatment System pursuant to the "Rates, Rules and Regulations Governing the Furnishings of Wastewater Collection and Disposal Services," Tariff Wastewater PA P.U.C. No. 16 (the "**Tariff Regulations**"), as filed with and approved by the Pennsylvania Public Utility Commission. The Tariff Regulations and IPP establish wastewater control regulations that, among other provisions, prohibit certain discharges to the wastewater system, establish Pretreatment Standards and Requirements, require commercial and industrial customers to comply with the IPP, and require industrial customers to obtain and comply with Wastewater Discharge Permits. The IPP further provides that PAWC has the legal authority to impose enforcement of the IPP through, among other measures, issuance of notices of violation, compliance directives and cessation directives, referral to the Pennsylvania Department of Environmental Protection, injunctive relief and civil actions, suspension and termination of Wastewater Discharge Permits and termination of wastewater service, imposition and collection of excess flow and loading fees, and recovery of the costs incurred by PAWC for the investigation and actions to address a user's non-compliance with the IPP.

Pursuant to PAWC's authority under the IPP and Tariff Regulations, Permittee is legally obligated to comply with the terms and conditions set forth in this Compliance Directive.

Failure by Permittee to comply with the terms and conditions set forth in this Compliance Directive may result in further enforcement action by PAWC.

FINDINGS

1. Permittee is the owner and operator of a food manufacturing facility located at 1100 Lincoln Road, Birdsboro, PA 19508-1702, in Exeter Township, Berks County, known as Birdsboro Kosher Farms. Permittee discharges non-domestic wastewater containing pollutants into the Exeter Wastewater Treatment System (the “**Exeter System**”) owned and operated by PAWC.
2. The wastewaters generated by Permittee’s facility constitute industrial wastewaters as defined in the IPP and are subject to the Effluent Standards and Requirements of the IPP.
3. Permittee is a significant industrial user as defined by 40 CFR §403.3(v) and Section 1 of the IPP.
4. Permittee is an Industrial User or Industrial Discharger under the provisions of the Tariff Regulations and IPP applicable to the Exeter System.
5. PAWC issued to Permittee Wastewater Discharge Permit No. EXE008S dated November 1, 2020 (the “**Permit**”). The Permit updated and replaced Wastewater Discharge Permit No. EXE008S dated April 13, 2018.
6. The Permit contains specific terms, conditions and limitations on the wastewater that Permittee is allowed to discharge wastewater to the Exeter System.
7. The Permit allows Permittee to discharge wastewater to the Exeter System only from a single outfall identified in the Permit as FAC, subject to the terms and conditions of the Permit.
8. Pursuant to the IPP and the Permit, Permittee is obligated to collect and report to PAWC certain information and analyze effluent samples regarding the wastewater that is discharged to the Exeter System.
9. The information collected by Permittee and reported to PAWC is used, in part, to determine whether the wastewater discharged by Permittee complies with the terms and conditions set forth in the Permit and the IPP.
10. On December 7, 2019, PAWC provided Permittee with updated notification procedures that are to be used when the Permittee is unable to meet the requirements of the Permit.
11. On April 7, 2020, PAWC sent a letter to Mr. Eric Reynolds at Permittee regarding the notification requirements of the Permit. The letter was issued in response to a notification by the Department of Environmental Protection advising PAWC of an illegal discharge of wastewater by Permittee.

12. On August 25, 2020, Permittee set up a bypass of its effluent wet well after a pump failure. The bypass was discovered on August 26, 2020 by PAWC employees while conducting a routine site visit to collect a sample.
13. A grab sample was collected by PAWC employees of the wastewater bypass on August 26, 2020. The results of the testing demonstrate a slug load of organic loading was discharged by Permittee during the bypass. Analytical results of the organic slug load are attached as **Exhibit A**.
14. PAWC sent Permittee a letter dated September 10, 2020 reminding Permittee of the responsibility to notify PAWC in the event of a bypass.
15. On October 26, November 9, November 11, and December 7, 2020, PAWC observed a large amount of feathers in the influent channel of the Exeter System. Permittee's facility is the only source of any such feather materials discharging to the Exeter System. Pictures of the feather discharges are attached as **Exhibits B – E**.
16. Part 3, Section C of the Permit and Section 2.11 of the IPP requires that the Permittee immediately notify PAWC by telephone of any accidental spill and non-routine batch discharge (referred to as a "slug discharge"). Part 3, Section C of the Permit requires that a written report of such spill or non-routine batch discharge be submitted within 5 days.
17. With respect to the feather materials observed on October 26, November 9, November 11, and December 7, 2020, Permittee failed to report to PAWC any accidental or non-routine discharge of feathers or other materials in violation of Part 3, Section C of the Permit and Section 2.11 of the IPP.
18. Part 5, Section A.b.iii of the Permit and Section 2.1(b)(iii) of the IPP prohibit the discharge of animal guts or tissues, bones, whole blood, and feathers.
19. Permittee's discharges of feathers and other materials as observed on October 26, November 9, November 11, and December 7, 2020, constitute violations Part 5, Section A.b.iii of the Permit and Section 2.1(b)(iii) of the IPP.
20. Part 5, Section C.1 of the Permit and Section 3.2 of the IPP require the Permittee to properly operate and maintain all facilities and systems of the treatment and control which are installed or used by the Permittee to achieve compliance with the rules of the Permit.
21. Permittee's failure to properly operate its facilities and systems to control and prevent the discharge of animal guts or tissues, bones, whole blood, and feathers as observed on October 26, November 9, November 11, and December 7, 2020, constitute violations of Part 5, Section C.1 of the Permit and Section 3.2 of the IPP.
22. Part 5, Section C.3 of the Permit and Section 3.4 of the IPP requires that any bypass of treatment facilities must be reported to PAWC.

23. The wet well at Permittee's facility provides separation of solids and grease and is therefore considered part of the treatment facilities.
24. Permittee's bypass of its treatment facilities that was initiated on August 25, 2020 and discovered on August 26, 2020, which was undertaken without any prior to subsequent notice by Permittee to PAWC, constitutes a violation of Part 4, Section C.3 of the Permit and Section 3.4 of the IPP.
25. Section W of the Tariff Regulations provides that all customers connected to the Exeter system "shall comply with the "Industrial Pretreatment Program (Exeter)" ("IPP-E") as required by and submitted to the Pennsylvania Department of Environmental Protection and as may be amended from time to time." Each of the violations of the Permit and IPP as described in the above paragraphs constitutes a violation by Permittee of the Tariff Regulations.

COMPLIANCE DIRECTIVE

Based on the foregoing legal authority and findings, Pennsylvania-American Water Company hereby directs Permittee to undertake the following corrective actions:

1. Within fifteen (15) calendar days of the receipt of this Compliance Directive, Permittee shall provide PAWC with a copy of a notification procedure which details the steps Permittee will take in the event of a bypass or accidental/unanticipated discharge from the facility.
2. Within fifteen (15) calendar days of the receipt of this Compliance Directive, Permittee shall provide PAWC with a copy of the operational procedures to prevent the discharge of animal guts or tissue, whole blood, and feathers from the facility.
3. Within thirty (30) calendar days of the receipt of this Compliance Directive, Permittee shall provide PAWC with (1) a list of all known operational deficiencies within the pretreatment facilities that prevents Permittee from complying with the standards, conditions and requirements of the Permit; and (2) a plan setting for the corrective actions to be implemented to correct such deficiencies, and specific milestones and schedules for implementing such corrective actions.
4. A sampling and analysis fee of \$185 will be added to the 4th quarter IPP bill for samples collected in response to the bypass which occurred on August 25, 2020.
5. All reports, information, documents, and notices required by this Compliance Directive shall be sent, in writing, to the following:

Kristin May
IPP Coordinator
Pennsylvania American Water Exeter WWTP
400 Hanover Street
Birdsboro, PA 19508
Email: Kristin.May@amwater.com

6. Nothing contained in this Compliance Directive shall be deemed or construed as a waiver or modification of any portion of the Permit, all of which remain in full force and effect.
7. Failure to comply with the requirements of this Compliance Directive shall constitute a further violation of the IPP.
8. PAWC reserves the right to require additional measures and to take additional enforcement actions to achieve and assure compliance with the Permit, IPP, and applicable law. Without limiting the foregoing, PAWC reserves the right to amend the Permit in order to impose additional or modified effluent limitations and monitoring requirements upon any and all discharges by Permittee to the Exeter System in order to avoid Interference and Pass Through (as those terms are defined in the IPP) and to assure compliance with the IPP and NPDES Permit governing the Exeter System's WWTP.
9. In the event Permittee fails to comply with any provision of this Compliance Directive, PAWC may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of the Permit, the IPP, or the Tariff Regulations.
10. The remedies provided by this Compliance Directive, the IPP and Tariff Regulations are cumulative and the exercise of one does not preclude the exercise of any other. The failure of PAWC to pursue any remedy shall not be deemed to be a waiver of that remedy.

FOR PENNSYLVANIA-AMERICAN WATER COMPANY



Daniel J. Hufton, P.E.
Sr. Operations Manager & Interim Water Quality Lead

**Cc: James Gable, Senior Manager Operations, PAWC
Jennifer Milakeve, Manager, Water Quality & Environmental Compliance, PAWC
Kristin May, Supervisor, Water Quality & Environmental Compliance, PAWC
David Seltzer, Supervisor, Field Operations, PAWC
Kelly Bothur, Supervisor, Operations, PAWC**

EXHIBIT A: Analytical results of the organic slug load, August 26, 2020

EXHIBIT B: Feathers in influent channel, October 26, 2020



Exhibit A

EXHIBIT C: Feathers in influent channel, November 9, 2020



Exhibit A

EXHIBIT D: Feathers in influent channel, November 11, 2020



Exhibit A

EXHIBIT E: Feathers in influent channel, December 7, 2020



Exhibit A



Results Report

Order ID: 0085675

PA American Water - Exeter Wastewater 400 Hanover Street Birdsboro, PA 19508-9181	Project: Birdsboro Kosher Farms - Bypass
Attn: Jim Gable	Regulatory ID:

Sample Number: 0085675-01	Site: 1 - BKF Wet Well	Sample ID:
Collector: KB	Collect Date: 08/26/2020 9:55 am	Sample Type: Grab

Department / Test / Parameter	Result	Units	Method	R.L.	DF	Prep Date	By	Analysis Date	By
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Inorganics

Biochemical Oxygen Demand (5 day BOD)	18400	H, X	mg/L	SM 5210-B	2.0	1	09/01/20	LEP	09/01/20 19:48	LEP
Total Suspended Solids (TSS)	2160	X	mg/L	SM 2540-D	4.0	1	08/27/20	CJ	08/27/20 14:09	CJ

Sample Number: 0085675-02	Site: 2 - Plant Influent	Sample ID:
Collector: CB	Collect Date: 08/26/2020 10:16 am	Sample Type: Grab

Department / Test / Parameter	Result	Units	Method	R.L.	DF	Prep Date	By	Analysis Date	By
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Inorganics

Biochemical Oxygen Demand (5 day BOD)	293		mg/L	SM 5210-B	2.0	1	08/27/20	YBZ	08/27/20 12:21	YBZ
Chloride	297		mg/L	EPA 300.0	25.0	5	09/01/20	EJJ	09/01/20 8:20	MCJ
Total Dissolved Solids (TDS)	955		mg/L	SM 2540-C	25.0	1	08/31/20	CH	08/31/20 13:36	CH
Total Suspended Solids (TSS)	268		mg/L	SM 2540-D	4.0	1	08/27/20	YTM	08/27/20 13:16	YTM

Data Qualifiers:

- H Hold time was exceeded for this analysis.
- X Temperature storage for this analysis did not meet regulatory or method requirements.

Sample Receipt Conditions:

All samples met the sample receipt requirements for the relevant analyses.

Report Generated On: 09/08/2020 4:06 pm 0085675
 STL_Results Revision #1.9 Effective: 04/16/2020





SUBURBAN TESTING LABS

The test *pH, Lab* is performed in the Laboratory as soon as possible. These results are not appropriate for compliance with NPDES, SDWA, or other regulatory programs that require analysis within 15 minutes of sample collection and should be considered for informational purposes only.

**pH, Final* for ASTM leachate is performed by method SM 4500-H-B.

All results meet the requirements of STL's TNI (NELAC) Accredited Quality System unless otherwise noted. If your results contain any data qualifiers or comments, you should evaluate useability relative to your needs.

If collectors initials include "STL", samples have been collected in accordance with STL SOP SL0015.

All results reported on an As Received (Wet Weight) basis unless otherwise noted.

This laboratory report may not be reproduced, except in full, without the written approval of STL.

Results are considered Preliminary unless report is signed by authorized representative of STL.

Reviewed and Released By:

Arianna Horonzy
Project Manager

Report Generated On: 09/08/2020 4:06 pm 0085675
STL_Results Revision #1.9 Effective: 04/16/2020



**NOTICE OF DENIAL AND OBJECTIONS TO VIOLATIONS AND
COMPLIANCE DIRECTIVE WITH NEW MATTER**

AND NOW COMES, Defendant, Birdsboro Kosher Farms, Corp. (“BKF”)

OBJECTING to the Notice of Violation and Compliance Directive, offering New Matter
in support thereof, as follows:

REPLIES TO FINDINGS

- 1) Admitted;
- 2) Admitted;
- 3) Admitted;
- 4) Admitted;
- 5) Admitted;
- 6) Admitted;
- 7) Admitted;
- 8) Admitted;
- 9) Admitted;
- 10) Admitted;
- 11) Respondent is unable to confirm or deny, they do not have a copy of the
subject letter;
- 12) Admitted;
- 13) Respondent is unable to confirm or deny, they were never informed.

Moreover, on prior inspections, Respondent observed female hygiene refuse clogging the
subject area and very few feathers;

- 14) Admitted;

15) Denied. Respondent was not invited to review and, as in prior instances, has a difficult time believing it is other than female hygiene products clogging the subject area;

16) Admitted;

17) Admitted, within 24 hours;

18) Admitted;

19) Denied. Respondent believes, as in prior instances, that female hygiene products are, in fact, clogging the subject area;

20) Admitted;

21) Denied. Respondent has investigated the subject systems and they were operating properly;

22) Admitted;

23) Denied, there is a separate in-line treatment unit which addresses this;

24) Admitted because 24 hours had not yet elapsed and, in fact, there was nothing found by Respondent;

25) Admitted, if they had actually done something wrong.

NEW MATTER

1) Claimant has repeatedly failed to timely and properly bill Respondent because of its internal issues, dumping a six-figure bill on them after months of non-billing;

2) Claimant has a fundamental misunderstanding of the systems Respondent has in place, they do work, and, in the history of the plant, Respondent has NEVER before had numbers such as those Claimant avers herein;

- 3) Claimant is improperly billing Respondent, resulting in violations of Rates allowed by the governing authorities;
- 4) Claimant is utilizing improper test samples to overcharge Respondent;
- 5) Claimant is exceeding its authority under law.
- 6) Respondent has nothing to remediate, Claimant is welcome to conduct a proper inspection of the facility to better educate itself.

WHEREFORE, Defendant DENIES said Violations and Objects thereto.

Dated: 1/15/21

DICKSON LAW GROUP, LLC

By: /s Joseph A. O'Keefe

PA. I.D. 77068

606 Court St., Suite 200,

Reading, PA 19601

CO. I.D. 52229

605 S. Tejon St.

Colorado Springs, Co. 80903

(484) 824-8317

Joseph.OKeefe@Dicksonlawgroupcolorado.com

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing pleading was electronically served this date by the Court's system.

Dated: 1/15/21

Joseph A. O'Keefe, Esq.



3-DAY SHUT OFF NOTICE

For non-payment of your wastewater bill

This notice is to inform you that we will be shutting off your wastewater service on or after the date shown below because we did not receive payment for your overdue bill.

Today's Date: 4/30/2021

Account Number: 1024-220033302739

Name: Birdsboro Kosher Farms

Service Address: 1100 Lincoln Rd, Birdsboro, PA

Wastewater service will be turned off on or after: 5/6/2021

Overdue amount: \$488,905.01. **Please pay immediately.**

NOTE: If payment is not received and your wastewater service is shut off, to restore service, you will have to contact us to schedule an appointment to have your service restored during normal business hours. **When the termination of your wastewater service occurs, the sewage generated in your business will no longer flow into the wastewater system. If payment is not made, a stop will be installed in the sewer line to your business. Continued use of your plumbing fixtures will result in sewage backing up into your property.**

It is not too late. To avoid having your service shut off, you must pay the total overdue amount in full.

MEDICAL EMERGENCY NOTICE (for residential customers only)

If someone living in your home is seriously ill, we will not shut off your wastewater service during this illness if you do two things:

1. Have a licensed doctor or nurse practitioner certify in writing that the illness exists, and that the person will be in danger if you do not have wastewater service.
2. Make arrangements to pay your overdue and current wastewater bills by calling **1-877-230-0718**.

Special protections are also available for victims under a protection from abuse order. Call **1-877-230-0718** to learn more.

If you have any questions or need more information, contact us as soon as possible at **1-877-230-0718**. After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file a complaint before the shut off date. To contact them, call 800-692-7380 or write to the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg PA 17105-3265.

PARA DETENER EL CIERRE, usted debe pagar la cantidad vencida O Usted debe llamar al 1-855-669-8753, si usted tiene alguna pregunta o necesita más información.

3-DAY SHUT OFF NOTICE

For non-payment of your water bill wastewater bill

This notice is to inform you that we will be shutting off your water service on or after the date shown below, because we did not receive payment for your overdue bill.

Today's Date: 4/30/21 Account Number: 220033302739
Name: _____

Service Address: 1100 LINCOLN RD
Water service will be disconnected on or after 5/6/21

Overdue amount (must be paid prior to shut off date): \$ 488905.01

If payment is not received and your water service is shut off, to restore service, you may have to pay the following charges or the full outstanding balance.

Overdue water bill	\$	
Overdue wastewater bill	\$	<u>488905.01</u>
Reconnection fee (to restore service)	\$	<u>30.00</u>
Total		<u>\$488935.01</u>

*If the service is shut off, you may be required to pay more than the amount listed to have services turned on.

It is not too late. To avoid having your service shut off, you must do one of the following:

1. Pay the total overdue amount in full.
2. Call **1-855-669-8753** (24/7) regarding a possible payment arrangement, to dispute the overdue bill or if someone in your home has a serious illness or medical condition (see below).

MEDICAL EMERGENCY NOTICE (for residential customers only)

Let us know if someone living in your home is seriously ill or has a medical condition that will be aggravated by the cessation of service. We will not shut off your service during such illness provided you:

- (a) Have a licensed physician, nurse practitioner or physician's assistant certify by in writing that such illness exists and that it may be aggravated if your service is stopped; and
- (b) Make some equitable arrangement to pay the company your current bills for service.
- (c) Contact us by calling the following phone number: **1-855-669-8753** or writing Pennsylvania American Water, P.O. Box 578, Alton, IL 62002.
- (d) Have your licensed physician, nurse practitioner or physician's assistant send a signed written document to the utility within three days certifying that a customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition.

Special protections are also available for victims under a protection from abuse order. Call **1-855-669-8753** to learn more.

If you have any questions or need more information, contact us as soon as possible at **1-855-669-8753**. After you talk to us, if you are not satisfied, you may file a complaint with the Public Utility Commission. The Public Utility Commission may delay the shut off if you file a complaint before the shut off date. To contact them, call 1-800-692-7380 or write to the Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265.

Esto es un aviso importante sobre su servicio de agua. Para la ayuda de la traducción, por favor llamas a Pennsylvania American Water al numero **1-855-669-8753**.

05-2020



Joseph O'Keefe <joe@psokventurellc.com>

RE: Sewer/water account 1024-220033302739

1 message

AP <AP@bkfcorp.com>

Tue, May 4, 2021 at 9:29 PM

To: Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>, Kristin L May <Kristin.May@amwater.com>, Art Heckman <art@bkfcorp.com>

Cc: Barbara M Williams <Barbara.Williams@amwater.com>, AP <AP@bkfcorp.com>, Brenda Jankowski <Brenda.Jankowski@amwater.com>, David P Seltzer <David.Seltzer@amwater.com>, James A Gable <James.Gable@amwater.com>, Douglas A Nester <Douglas.Nester@amwater.com>, Joseph J Rambaldi <Joseph.Rambaldi@amwater.com>, Kelly Bothur <Kelly.Bothur@amwater.com>, Sam Wieder <sam@bkfcorp.com>, Jennifer A Milakeve <Jennifer.Milakeve@amwater.com>, Joseph O'Keefe <joe@psokventurellc.com>

Good evening,

I hope you are doing well. I have gone through the account and I have some issues. The excel sheet attached is a summary of them. Below are the details.

Account 1024-210033002582

In this file there are 2 bills 4/2/20 and 11/5/20. Both surcharge bills do not belong on this account. On the 4/2/20 bill there is a charge \$12,160.00 which says it is the Q4 2019 IPP Surcharge bill (Exhibit A1). The April 2nd bill says this charge covers 10/1/19 - 3/4/20. Then we have Exhibit A2 for the Q1 2020 IPP surcharge bill. I can't find where this is billed on either account and the time period covered on the 4/2/20 bill overlaps with these tests. For Exhibit A3, Q2 2020 IPP Surcharge, we are requesting that the test sample number 8 be removed from the calculation as a conversation was had prior between PA water, Carlos, Sam, and Art that stated we wanted tests to be conducted on a processing day, not a Friday when we are not processing.

Exhibit A1 - Q4 2019 IPP Surcharge bill

Exhibit A2 - Q1 2020 IP Surcharge bill

Exhibit A3 - Q2 2020 IPP Surcharge Bill

Account 1024-220033302739

The 5/11/20 bill for 148,660.75 is very questionable for 2 reasons. The bill says that it is an IPP surcharge and now you are telling me it was miscoded and is a wastewater charge. The meter was installed on 4/10/20. The time period of this bill is from 10/24/19 to 4/3/20. We know there is a 10-15% retention of water in the chicken. We do not understand how this bill is calculated. There are no gallons shown on these bills.

Next, bill 5/20/20 is for a total of 22,223.76. This seems to be historically within reason, so it is ok until you read bill 6/11/20. On the detail section you will see it being "cancelled." You will also see this again on bill 7/14/20.

We were issued a credit for Q3 IPP Surcharge bill. There are a lot of them outside the norm. We had a conversation with PA Water and we moved the test site. They were not testing in the correct area and were not lowering the test far enough to get an accurate reading. I would like to know what error was made and what the credit is for in this quarter. We want accurate numbers that are representative of what we actually send back through the system. There are numbers that are too high here and numbers that are too low as well.

Sincerely,

Angel Gilpin

Accounting Department

Birdsboro Kosher Farms

1100 Lincoln Rd, Birdsboro PA 19508

610-404-0001 x 204

***NOTE: Please send all invoices to ap@bkfcorp.com ***

From: Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>

Sent: Tuesday, May 4, 2021 8:14 AM

To: Kristin L May <Kristin.May@amwater.com>; Angel Gilpin <AngelG@bkfcorp.com>; Art Heckman <art@bkfcorp.com>

Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>; David P Seltzer <David.Seltzer@amwater.com>; James A Gable <James.Gable@amwater.com>; Douglas A Nester <Douglas.Nester@amwater.com>; Joseph J Rambaldi <Joseph.Rambaldi@amwater.com>; Joseph J Rambaldi <Joseph.Rambaldi@amwater.com>; Kelly Bothur <Kelly.Bothur@amwater.com>; Jennifer A Milakeve <Jennifer.Milakeve@amwater.com>

Subject: RE: Sewer/water account 1024-220033302739

Thanks Kristin!

Angel, please keep in mind the termination is scheduled for Thursday. As I mentioned in a previous email, I would accept ½ of the balance before Thursday and the remaining balance 30 days thereafter. Just let me know what you decide.

Thank you,

Sincerely,

Cheryl DiSanti

Project Manager, Customer Experience

Pennsylvania American Water

500 Noblestown Rd.

Carnegie, PA 15106

Cell - 412-559-2497

cheryl.disanti@amwater.com

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From: Kristin L May <Kristin.May@amwater.com>

Sent: Tuesday, May 4, 2021 8:08 AM

To: Angel Gilpin <AngelG@bkfcorp.com>; Art Heckman <art@bkfcorp.com>

Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>; Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>

Subject: RE: Sewer/water account 1024-220033302739

We confirmed that the 5/11/20 bill was coded incorrectly. The charges on this bill are wastewater charges, not IPP surcharges.

Kristin May

Supervisor, Water Quality & Environmental Compliance

(C) 610-212-9752

From: Kristin L May

Sent: Monday, May 3, 2021 3:43 PM

To: Angel Gilpin <AngelG@bkfcorp.com>; Art Heckman <art@bkfcorp.com>

Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>; Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>

Subject: RE: Sewer/water account 1024-220033302739

The bill from 5/11/20 references IPP surcharges, but we believe this was a coding error and that the charges are the normal flow based wastewater charges. Once we are able to confirm we will let you know.

Kristin May
Supervisor, Water Quality & Environmental Compliance
(C) 610-212-9752

From: Angel Gilpin <AngelG@bkfcorp.com>
Sent: Monday, May 3, 2021 1:57 PM
To: Kristin L May <Kristin.May@amwater.com>; Art Heckman <art@bkfcorp.com>
Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>; Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>
Subject: RE: Sewer/water account 1024-220033302739

EXTERNAL EMAIL: The Actual Sender of this email is AngelG@bkfcorp.com "Think before you click!".

Hi,

Please send me the very first one. I do not have one for \$148,660.75 for May 11, 2020. It says it is all surcharge.

Sincerely,

Angel Gilpin

Accounting Department

Birdsboro Kosher Farms

1100 Lincoln Rd, Birdsboro PA 19508

610-404-0001 x 204

***NOTE: Please send all invoices to ap@bkfcorp.com ***

From: Kristin L May <Kristin.May@amwater.com>
Sent: Monday, May 3, 2021 1:12 PM
To: Angel Gilpin <AngelG@bkfcorp.com>; Art Heckman <art@bkfcorp.com>
Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>; Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>
Subject: RE: Sewer/water account 1024-220033302739

Angel, attached are all the surcharge letters and itemized spreadsheets for 4Q 2019 through 4Q 2020. The \$31K credit was due to a miscalculation on the 3Q surcharge. The attached letter/spreadsheets explain.

Art, I believe this is what you were requesting when you called me, but please let me know if you need any additional info.

Kristin May
Supervisor, Water Quality & Environmental Compliance
(C) 610-212-9752

From: Angel Gilpin <AngelG@bkfcorp.com>
Sent: Monday, May 3, 2021 12:42 PM
To: Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>
Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Kristin L May <Kristin.May@amwater.com>
Subject: RE: Sewer/water account 1024-220033302739

EXTERNAL EMAIL: The Actual Sender of this email is AngelG@bkfcorp.com "Think before you click!".

Cheryl, I will get back to you on that.

Kristin/Brenda, Can you please send me the detail for the Surcharge bill on 3/29/21 and the one billed to the other (wrong) account for 44,159.22 around November 2020.

Also, what is the credit \$31,862.65 on 1/22/21 for? What time period?

Sincerely,

Angel Gilpin

Accounting Department

Birdsboro Kosher Farms

1100 Lincoln Rd, Birdsboro PA 19508

610-404-0001 x 204

***NOTE: Please send all invoices to ap@bkfcorp.com ***

From: Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>
Sent: Monday, May 3, 2021 9:24 AM
To: Angel Gilpin <AngelG@bkfcorp.com>; Brenda Jankowski <Brenda.Jankowski@amwater.com>
Cc: Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Kristin L May <Kristin.May@amwater.com>
Subject: RE: Sewer/water account 1024-220033302739

Hello Angel,

The only arrangement we would accept is ½ today and ½ in 30 days. We have tried negotiating in the past to no avail. Please feel free to call me directly to discuss.

Sincerely,

Cheryl DiSanti

Project Manager, Customer Experience

Pennsylvania American Water

500 Noblestown Rd.

Carnegie, PA 15106

Cell - 412-559-2497

cheryl.disanti@amwater.com

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From: Angel Gilpin <AngelG@bkfcorp.com>
Sent: Monday, May 3, 2021 9:04 AM
To: Brenda Jankowski <Brenda.Jankowski@amwater.com>
Cc: Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>; Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Kristin L May <Kristin.May@amwater.com>
Subject: RE: Sewer/water account 1024-220033302739

EXTERNAL EMAIL: The Actual Sender of this email is AngelG@bkfcorp.com "Think before you click!".

Good morning Brenda,

Thank you for the invoices. Is there anyone we can talk to about a payment plan?

Sincerely,

Angel Gilpin

Accounting Department

Birdsboro Kosher Farms

1100 Lincoln Rd, Birdsboro PA 19508

610-404-0001 x 204

***NOTE: Please send all invoices to ap@bkfcorp.com ***

From: Brenda Jankowski <Brenda.Jankowski@amwater.com>
Sent: Friday, April 30, 2021 3:28 PM
To: Angel Gilpin <AngelG@bkfcorp.com>
Cc: Cheryl A DiSanti <Cheryl.DiSanti@amwater.com>; Barbara M Williams <Barbara.Williams@amwater.com>; AP <AP@bkfcorp.com>; Kristin L May <Kristin.May@amwater.com>
Subject: RE: Sewer/water account 1024-220033302739

Hello Angel,

I am the Supervisor of Operations Support, and my colleague Kristin May passed along your inquiry.

I've attached all of the invoices for the sewer only account that is under termination. As an alternative, you might want to consider registering the account with our customer portal for easy online access to your invoices, payment history, water usage data, etc. You can also register for paperless billing, which notifies customers by email when your monthly invoice is ready for payment. If interested, you can register at <https://wss.amwater.com/selfservice-web/login.do>.

Please don't hesitate to contact me with any questions.

Brenda Jankowski
Supervisor, Operations Support
Business Performance
Pennsylvania American Water
[500 Noblestown Road](#)
[Carnegie, PA 15106](#)

Office: [412-883-4819](#)

Cell: [412-583-4343](#)

E-mail: Brenda.Jankowski@amwater.com



From: Angel Gilpin <AngelG@bkfcorp.com>
Sent: Friday, April 30, 2021 12:28 PM
To: Kristin L May <Kristin.May@amwater.com>
Subject: Sewer/water account 1024-220033302739

EXTERNAL EMAIL: The Actual Sender of this email is AngelG@bkfcorp.com "Think before you click!"

Hello,

Can you please send over to me every open bill including the sewer and water bills on account # 1024-220033302739?

Sincerely,

Angel Gilpin

Accounting Department

Birdsboro Kosher Farms

1100 Lincoln Rd, Birdsboro PA 19508

610-404-0001 x 204

***NOTE: Please send all invoices to ap@bkfcorp.com ***

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3 attachments

 **Book1.xlsx**
15K

 **AM water.zip**
4406K

 **582.pdf**
761K



Joseph O'Keefe <joe@psokventurellc.com>

Pennsylvania American Water Company - Birdsboro Kosher Farms Billing

1 message

Weston, R. Timothy <tim.weston@klgates.com>

Mon, May 10, 2021 at 3:07 PM

To: Joseph O'Keefe <joe@psokventurellc.com>, George Lutz <glutz@hvmlaw.com>

Mr. O'Keefe --

Attached are responses from Pennsylvania-American Water Company ("PAWC") to the questions posed by your client Birdsboro Kosher Farms ("BKF") concerning the charges and billing as to their water and sewer service accounts. Those responses include a Word file that refers to the BKF questions in blue and provides PAWC's responses in red, together with a spreadsheet that summarizes the charges posted to the two BKF accounts.

The payment plan proffered by your emails late last week does not adequately address BKF's substantial outstanding balance, and proposes to extend payments out for a period that extends beyond two years. In response, PAWC would offer the following payment plan to your client:

On account 220033302739 (sewer only account)

Pay \$246,432.39 by 5/14/2021

Then pay \$75,000 a month plus current charges when due

On account 210033002582 (water and sewer account that was disconnected for non-payment)

Pay full balance of \$42,774.24 to restore service

We would request that you or your client respond to this offer by 5:00 pm EDT tomorrow, May 11, 2021. In making this payment plan offer, PAWC specifically reserves all of its rights under its PUC-approved Tariff and the Industrial Pretreatment Program regulations if this offer is not accepted by the time set forth above or is not thereafter complied with by your client.



R. Timothy Weston

Partner
K&L Gates LLP
Market Square Plaza, 18th Floor
17 North Second Street
Harrisburg, PA 17101
Phone: 717.231.4504
Fax: 717.231.4501

Cell: 717.579.9473
tim.weston@kkgates.com
www.kkgates.com

From: Joseph O'Keefe <joe@psokventurellc.com>
Sent: Friday, May 7, 2021 12:01 PM
To: Weston, R. Timothy <tim.weston@kkgates.com>; George Lutz <glutz@hvmlaw.com>
Subject: In re BKF

Good morning! Happy Friday!

Tim, I am circling back to make sure I have not missed anything, to confirm helping resolve this remains my utmost priority, and to see if BKF's proposal to start paying off the uncontested arrears (\$50,000 down and \$20,000 a month) - without prejudice as to any party, is acceptable?

I would like to see BKF get the \$50,000 to you - possibly even today yet, as a sign of good faith and in hopes it can start to build a bridge between clients.

Please advise.

J

Joseph A. O'Keefe, Esq.

This electronic message contains information from the law firm of K&L Gates LLP. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please contact me at

tim.weston@klgates.com.-4

2 attachments

 **Responses to BKF Questions Concerning Billing.pdf**
386K

 **BKF Billing Review.xlsx**
603K

PENNSYLVANIA-AMERICAN WATER COMPANY RESPONSE TO BIRDSBORO KOSHER FARMS QUESTIONS CONCERNING BILLING AND CHARGES - 05/10/2021

BKF Questions in blue

PAWC Responses in red

Account 1024-210033002582

In this file there are 2 bills 4/2/20 and 11/5/20. Both surcharge bills do not belong on this account. On the 4/2/20 bill there is a charge \$12,160.00 which says it is the Q4 2019 IPP Surcharge bill (Exhibit A1). The April 2nd bill says this charge covers 10/1/19 - 3/4/20. **The bill was labeled incorrectly. This IPP charge actually covers from 10/1/2019 - 12/31/2019. The \$12,160 billed 4/2/2020 was an IPP charge. However, it was not transferred to account 220033302739 as BKF paid it in full on account 210033002582.**

Then we have Exhibit A2 for the Q1 2020 IPP surcharge bill. I can't find where this is billed on either account and the time period covered on the 4/2/20 bill overlaps with these tests (**see above**). **You are correct, the bill was not issued on either account.**



Kristin May
400 Hanover Street
Birdsboro, PA 19508
610-212-9752
Kristin.May@amwater.com

June 15, 2020

Melvin Fishman
Birdsboro Kosher Farms
1100 Lincoln Road
Birdsboro, PA 19508
Premise No. 9240738159

RE: First Quarter Industrial Surcharge Revision

Dear Mr. Fishman:

There was accounting error with the first quarter industrial surcharge included on your wastewater bill which resulted in an incorrect billing. The initial bill was calculated based on 123,300 gallons used by your facility; however, the correct number was 8,369,300 gallons. The balance of 8,246,000 gallons was used to calculate the remaining surcharge amount, as documented in the enclosed surcharge summary.

I apologize for any inconvenience this may have caused. If you have any questions, please call me at 610-212-9752

Sincerely,

Kristin May
Supervisor, Water Quality & Environmental Compliance, Wastewater

CC: Kelly Bothur, Senior Supervisor of Operations, Exeter WWTP

For Exhibit A3, Q2 2020 IPP Surcharge, we are requesting that the test sample number 8 be removed from the calculation as a conversation was had prior between PA water, Carlos, Sam, and Art that stated we wanted tests to be conducted on a processing day, not a Friday when we are not processing. **This issue was brought up on a meeting on 8/20/20 and again on a call on 10/19/20. After discussing this internally after the 8/20 meeting, we decided that we cannot exclude sampling on a Friday, as the IPP Permit specifically states: "selection of sampling days and dates shall not be based on any consideration such as, high or low flows, high or low workloads, internal incidents, abnormal or normal conditions, and pretreatment plant performance. The sampling dates and days shall be conducted on a strictly random selection basis."**

Exhibit A1 - Q4 2019 IPP Surcharge bill

Exhibit A2 - Q1 2020 IP Surcharge bill

Exhibit A3 - Q2 2020 IPP Surcharge Bill

Account 1024-220033302739

The 5/11/20 bill for 148,660.75 is very questionable for 2 reasons. The bill says that it is an IPP surcharge and now you are telling me it was miscoded and is a wastewater charge. The meter was installed on 4/10/20. **This meter is not used for calculation of wastewater charges.** The time period of this bill is from 10/24/19 to 4/3/20. We know there is a 10-15% retention of water in the chicken. We do not understand how this bill is calculated. There are no gallons shown on these bills.

Correct, the bill was miscoded. The \$148K are not IPP charges. Please see below for consumption and charges.

Usage Calculation		Usage in 100 gallons	
Start Read Date	10/24/2019		
End Read Date	2/4/2020		73,370
Service Charge	\$213.88		\$213.88
Usage 1st 34 unit	115.13 x	0	\$0.00
Remaining Usage	73255	\$1.10 =	\$80,580.35
Manual bill to be entered by Special Accounts			\$80,794.23
Usage Calculation		Usage in 100 gallons	
Start Read Date	2/1/2020		
End Read Date	3/5/2020		27,690
Service Charge	\$63.16		\$63.16
Usage 1st 34 unit	34 x	0	\$0.00
Remaining Usage	27656	\$1.10 =	\$30,421.60
Manual bill to be entered by Special Accounts			\$30,484.76
Usage Calculation		Usage in 100 gallons	
Start Read Date	3/5/2020		
End Read Date	4/3/2020		33,960
Service Charge	\$63.16		\$63.16
Usage 1st 34 unit	34 x	0	\$0.00
Remaining Usage	33926	\$1.10 =	\$37,318.60
Manual bill to be entered by Special Accounts			\$37,381.76

Next, bill 5/20/20 is for a total of 22,223.76. This seems to be historically within reason, so it is ok until you read bill 6/11/20. On the detail section you will see it being "cancelled." You will also see this again on bill 7/14/20.

You were only charged one time for \$22,223.76. Please see below. The credit negates one of the debits, so only one charge of \$22,223.76 was debited.

06/10/2020	IS-U inv. reversal	USD		22,223.76-
06/11/2020	IS-U Invoicing	USD	22,223.76	
06/10/2020	IS-U Invoicing	USD	22,223.76	

We were issued a credit for Q3 IPP Surcharge bill. There are a lot of them outside the norm. We had a conversation with PA Water and we moved the test site. They were not testing in the correct area and were not lowering the test far enough to get an accurate reading. I would like to know what error was made and what the credit is for in this quarter. We want accurate numbers that are representative of what we actually send back through the system. There are numbers that are too high here and numbers that are too low as well.

The testing site was not incorrect. BKF claimed that the sampling point was in a location where all the fats/oils/grease collect in the wet well and the sampler is pulling non-representative samples. Although 1. the sampler location was the same as before PAWC acquired Exeter WWTP and 2. the location of the sampler's strainer is below the level of fat/oils/grease floating on top of the water, PAWC agreed to move the sampling location to the influent side of the wet well to satisfy BKF.

There was one instance where BKF pointed out that the sampling strainer was above the water line in the wet well and that PAWC did not collect a representative sample. This occurred when PAWC employees came on site to collect the samples and retrieve the sampler. The PAWC employees checked the sampler program which records all sample times and any errors with collection and noted that all samples were collected without issue. The wet well was pumped down after the sampler was done collecting samples, so this was not an issue that impacted the sampling event.

As far as the credit, there was a calculation error as indicated in the letter sent to Art Heckman on 1/28/21. The exact description of error is as follows: a new row of data was inserted into the excel spreadsheet but the equations that calculate BOD pounds and TSS pounds were not revised to account for the additional row. The calculation pulled Sample 14 data instead of pulling the averages data. The Sample 14 results were higher than the averages, which was why the surcharge decreased once the error was fixed.



Kristin May
400 Hanover Street
Birdsboro, PA 19508
484-946-7453
Kristin.May@amwater.com

January 27, 2021

Mr. Art Heckman
Birdsboro Kosher Farms Corporation
1100 Lincoln Road
Birdsboro, PA 19508

Dear Mr. Heckman:

Pennsylvania-American Water Company ("PAWC") recently reviewed its billing records for your facility and discovered an inadvertent error with the calculation of the surcharge for wastewaters exceeding prescribed concentrations in the third quarter 2020.

The third quarter industrial pretreatment program surcharge for higher concentration wastewaters was billed as \$134,786.31. However, the correct calculation should have been \$102,923.66. A credit of \$31,862.65 has been applied to your account and will be shown on your next bill. The initial and revised itemized surcharge calculation spreadsheets are enclosed for your reference.

PAWC has reviewed all previous bills and determined that the calculation error only affected third quarter 2020.

If you have any questions or concerns, please feel free to contact me.

Thank you,

A handwritten signature in black ink, appearing to read "Kristin May".

Kristin May
Water Quality Supervisor
Pennsylvania American Water

		Original			
					
Name:	Birdsboro Kosher Farms				
Premise No.:	9240738159				
Quarter:	3rd				
Year:	2020				
Total Quarterly Wastewater Flow (gallons) 9,325,400					
Laboratory Results:					
Sample No.	Date Sampled	BOD (mg/L)	TSS (mg/L)	NH ₃ -N (mg/L)	Oil & Grease (mg/L)
1	07/07/20	2010	1180		444
2	07/16/20	2010	760		255
3	07/23/20	1920	850		193
4	07/30/20	1210	553		27.5
5	08/05/20	697	430		463
6	08/13/20	1260	432		62.4
7	08/20/20	1960	935		39.5
8	08/27/20	791	486		179
9	09/03/20	2.1	8.0		93.7
10	09/04/20	200	164		170
11	09/11/20	1620	770		94.1
12	09/16/20	531	128		152
13	09/23/20	228	29		6.6
14	09/30/20	1500	1640		42.4
Averages:		1,139	598		159

Surcharge Summary:			
Pounds of BOD discharged subject to surcharge ¹	97,217		
Surcharge rate per thousand pounds of BOD	\$1,133.31		
Surcharge for excess BOD ²			\$110,177.33
Pounds of TSS discharged subject to surcharge ¹	27,026		
Surcharge rate per thousand pounds of TSS	\$776.98		
Surcharge for excess TSS ²			\$20,998.98
Other Charges			
IPP Non-Compliance Inspection Fee			\$250.00
Sampling Fees (\$150 x 14)			\$2,100.00
Laboratory Fees (\$ 90 x 14)			\$1,260.00
Total Surcharge Bill			\$134,786.31

¹(average - 250) x 8.34 x (quarterly flow / 1,000,000)
²(pounds subject to surcharge / 1,000) x surcharge rate per thousand pounds

Correction	
Name:	Birdsboro Kosher Farms
Premise No.:	9240738159
Quarter:	3rd REVISED
Year:	2020
Total Quarterly Wastewater Flow (gallons) 9,325,400	

Laboratory Results:					
Sample No.	Date Sampled	BOD (mg/L)	TSS (mg/L)	NH ₃ -N (mg/L)	Oil & Grease (mg/L)
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13	09/23/20	228	29		6.6
14	09/30/20	1500	1640		42.4
Averages:		1,139	598		159
Surcharge Summary:					
Pounds of BOD discharged subject to surcharge ¹				69,103	
Surcharge rate per thousand pounds of BOD				\$1,133.31	
Surcharge for excess BOD ²					\$78,314.68
Pounds of TSS discharged subject to surcharge ¹				27,026	
Surcharge rate per thousand pounds of TSS				\$776.98	
Surcharge for excess TSS ²					\$20,998.98
Other Charges					
IPP Non-Compliance Inspection Fee					\$250.00
Sampling Fees (\$150 x 14)					\$2,100.00
Laboratory Fees (\$ 90 x 14)					\$1,260.00
Total Surcharge Bill					\$102,923.66
Initial Total Surcharge Bill:					\$134,786.31
Revised Total Surcharge Bill:					\$102,923.66
Amount Credited to Account:					\$31,862.65

¹(average - 250) x 8.34 x (quarterly flow / 1,000,000)

²(pounds subject to surcharge / 1,000) x surcharge rate per thousand pounds

Account	Service	Contract	Premise	Bill dates	Invoice Number	IPP Period 1	IPP Period 1 amount	IPP Period2	IPP Period one amount	Current period charges	Notes
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	10/01/2020-11/04/2020	100003408795	1/1/2020-3/31/2020	702.71	04/01/2020-06/30/2020	43,465.51	44,924.42	Billed on the incorrect account number, see attachments on Doc 1 tab. Just IPP charges, no regular charges for wastewater Q1 and Q2 2020
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	11/05/2020-12/02/2020	100003423769	N/A	N/A	N/A	N/A	819.36	Correct charges
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	12/03/2020-01/06/2020	100003444202	N/A	N/A	N/A	N/A	884.9	Correct charges
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	01/07/2020-02/03/2020	100003463084	N/A	N/A	N/A	N/A	485.51	Correct charges
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	02/04/2020-03/03/2020	100003480677	N/A	N/A	N/A	N/A	253.28	Correct charges
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	03/04/2020-04/01/2020	100003504105	N/A	N/A	N/A	N/A	305.19	Correct charges
210033002582	Water and wastewater	3102851740/3103679 369	9240738159	04/02/2020-04/21/2020	100003514469	N/A	N/A	N/A	N/A	101.58	Final bill after shut off

Billed Q1 and Q2 IPP
charges for account
220033302739

Account	Service	Contract	Premise	Bill dates	Invoice Number	IPP Period 1	IPP Period 1 amount	IPP Period2	IPP Period one amount	Current period charges	Notes
220033302739	waste water	3203847155	5000185958	10/25/2019-05/06/2020	100003278760	10/24-02/04	80,794.23	02/01-03/05	30,484.76	148,660.75	1 st invoice. IPP line item coding was incorrect, should have been labeled as service and usage. Supporting documentation on Doc 2 tab Information provided for Special Accounts to bill. Billed period dates are incorrect on invoice. Charges are from 10/24/19-2/04/2020
220033302739	waste water	3203847155	5000185958	03/05/2020-04/03/2020	100003278760	N/A	N/A	N/A	N/A	37,318.60	IPP line item coding incorrect. Should have service charge and usage. Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	04/03/2020-05/04/2020	100003286162	N/A	N/A	N/A	N/A	22,223.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	05/07/2020-06/10/2020	100003300633	N/A	N/A	N/A	N/A	28,845.76	Info provided on Doc 3 Tab. Original invoice in the amount of 22,223.76 was reversed and rebilled -bill went out of balance which prevents it from processing
220033302739	waste water	3203847155	5000185958	06/11/2020-07/08/2020	100003320884	N/A	N/A	N/A	N/A	32,266.76	reversed info for previous period displays on this invoice
220033302739	waste water	3203847155	5000185958	07/09/2020-08/12/2020	100003344828	N/A	N/A	N/A	N/A	27,921.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	08/13/2020-09/09/2020	100003366096	N/A	N/A	N/A	N/A	40,714.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	09/10/2020-10/07/2020	100003386032	N/A	N/A	N/A	N/A	32,794.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	10/08/2020-11/11/2020	100003409774	N/A	N/A	N/A	N/A	32,354.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	11/12/2020-12/09/2020	100003427795	N/A	N/A	N/A	N/A	22,465.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	Q3 IPP	100003449117	N/A	N/A	N/A	N/A	134,786.31	IPP Surcharge billed (was reported incorrectly) supporting docs on Doc 4 tab
220033302739	waste water	3203847155	5000185958	12/10/2020-1/13/2021	100003449117	N/A	N/A	N/A	N/A	28,361.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	01/14/2021-2/10/2021	100003469034	N/A	N/A	N/A	N/A	22,102.76	Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	2/11/2021-03/10/2021	100003495363	N/A	21,090.24	N/A	N/A	41,268 includes Q4 2020 IPP surcharge	20,177.76 was the normal service for this period. Info provided on Doc 3 Tab
220033302739	waste water	3203847155	5000185958	03/11/2021-04/14/2021	100003511025	N/A	N/A	N/A	N/A	18,959.78	there was a 619.02 late fee assessed. Info provided on Doc 3 Tab



BKF Corp	9240738159	1103218853	220033302739	1/1/2020	3/31/2020	\$	702.71
BKF Corp	9240738159	1103218853	220033302739	4/1/2020	6/30/2020	\$	43,456.51

These charges just sent by Kristin May on 101520. Given the wrong account number, the other **220033302739** is sent by Noel and billed monthly..... I think I figured out the issue (hopefully):

- **220033302739/5000185958** sewer
- **210033002582/9240738159** sewer and water

In the spreadsheet I send to billing, I have the premise # **9240738159** and contract # **220033302739**. I see now that this is incorrect. I can't trace back how the mistake happened, but the correct #s are yellow.

BKF should have been billed for 1st and 2nd Q 2020 (see attached spreadsheets). 3rd Q has not been sent yet. I will make sure to update the contract # on the spreadsheet I send to billing!

Q1 and Q2 2020

Account Detail Account No. 1024-210033002582
Service To: 1100 LINCOLN RD BIRDSBORO, PA 19508

Prior Billing		1,681.20
Payments		0.00
Balance Forward - Past Due		1,681.20
Service Related Charges - 10/01/20 to 11/04/20		
Special Billing Account Adjustment - 01/01/20 to 03/31/20		
Other Charges		702.71
Surcharge for IPP		702.71
Special Billing Account Adjustment - 04/01/20 to 06/30/20		
Other Charges		43,456.51
Surcharge for IPP		43,456.51
Bill Period - 10/01/20 to 11/04/20		
Water Service 360.71		
Water Service Charge		41.60
Water Usage Charge	(160 x \$1.2205)	195.28
	(164 x \$0.9153)	150.11
Fed Tax Adjustment - Water Surcharge		-26.28
	(\$386.99 x -6.79%)	
Wastewater Service 382.16		
Wastewater Service Charge		63.16
Wastewater Use Charge	(34 x \$0.00)	0.00
	(290 x \$1.10)	319.00
Other Charges		22.33
Distribution System Improvement Charge		22.33

Usage Calculation		Usage in 100 gallons	
Start Read Date		10/24/2019	
End Read Date		2/4/2020	73,370
Service Charge	\$213.88		\$213.88
Usage 1st 34 unit	115.13 x	0	\$0.00
Remaining Usage	73255	\$1.10 =	\$80,580.35
Manual bill to be entered by Special Accounts			\$80,794.23
Please ensure that current tariff rates and applicable surcharges are applied. Forward to Special Accounts for processing: specialaccts@amwater.com			

Usage Calculation		Usage in 100 gallons	
Start Read Date		2/1/2020	
End Read Date		3/5/2020	27,690
Service Charge	\$63.16		\$63.16
Usage 1st 34 unit	34 x	0	\$0.00
Remaining Usage	27656	\$1.10 =	\$30,421.60
Manual bill to be entered by Special Accounts			\$30,484.76
Please ensure that current tariff rates and applicable surcharges are applied. Forward to Special Accounts for processing: specialaccts@amwater.com			

Page 1



Original

Name: **Birdsboro Kosher Farms**
 Premise No.: 9240738159
 Quarter: 3rd
 Year: 2020

Total Quarterly Wastewater Flow (gallons): 9,325,400

Laboratory Results:

Sample No.	Date Sampled	BOD (mg/L)	TSS (mg/L)	NH ₃ -N (mg/L)	Oil & Grease (mg/L)
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Surcharge rate per thousand pounds of TSS	\$776.98	
Surcharge for excess TSS ²		\$20,998.98
Other Charges		
IPP Non-Compliance Inspection Fee		\$250.00
Sampling Fees (\$150 x 14)		\$2,100.00
Laboratory Fees (\$ 90 x 14)		\$1,260.00
Total Surcharge Bill		\$134,786.31

¹(average - 250) x 8.34 x (quarterly flow / 1,000,000)

²(pounds subject to surcharge / 1,000) x surcharge rate per thousand pounds

Correction

Name: **Birdsboro Kosher Farms**
 Premise No.: 9240738159
 Quarter: 3rd
 Year: 2020

Total Quarterly Wastewater Flow (gallons): 9,325,400

Laboratory Results:

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PENNSYLVANIA
AMERICAN WATER

WASTEWATER SHUT OFF NOTICE

Recently, we have sent you several notices regarding your past due wastewater bill and have not received a response or payment to date. As a result, this notice is to inform you that we have shut off the wastewater service to this property for non-payment of your overdue bill.

If you produce any wastewater including using sinks, toilets, showers, bathtubs, dishwashers and clothes washers, it will back up into your property and may cause damage, which is the responsibility of the customer.

It is also important to note that some communities consider a dwelling to be uninhabitable if it does not have adequate functioning wastewater facilities and could result in a loss of the Certificate of Occupancy.

To make payment immediately by credit card, please call our Customer Service Center toll-free at the number listed below.

NOTE: In addition to your overdue bill, you will be charged for costs related to discontinuing service.

Posting Date: 05/20/2021

Location: 1100 Lincoln Rd, Birdsboro, PA

Account number: Birdsboro Kosher Farms / 220033302739

Amount due: \$492,864.79

Esto es un aviso importante sobre su servicio de alcantarilla. Para la ayuda de la traducción, por favor llamas a Pennsylvania American Water al número 1-855-669-8753.

CUSTOMER SERVICE CENTER 1-877-230-0718

WATER SUPPLY INSPECTION REPORT

FACILITY NAME Birdsboro Kosher Farms Corp.	PWS ID NO. n/a	INSPECTION DATE 4-May-24*
FACILITY LOCATION/ADDRESS 1100 Lincoln Rd., Birdsboro, PA 19508	COUNTY Berks	MUNICIPALITY Exeter Twp.
RESPONSIBLE OFFICIAL'S NAME Solomon Wieder	TELEPHONE NO. 610-404-0001	
	SYSTEM TYPE n/a	POPULATION 240
CERTIFIED OPERATOR'S NAME n/a	FIELD ORDER NO. 21-34-518542-003	
	ISSUE DATE (MM/DD/YY) 05/04/21	

V I O L A T I O N S	A1. Failure to respond to an emergency		C1. Failure to meet design/construction stds.		eFACTS INFO Insp. ID#: _____ Vid. ID#: _____	
	A2. Failure of key treatment processes		C2. Failure to conduct performance monitoring			
	A3. Failure to respond to an acute violation	X	C3. Failure to treat as permitted			
	B1. Failure to provide an adequate supply		C4. Failure to operate and maintain PWS			
	B2. Failure to provide min. disinfectant residual		C5. Failure to obtain certified operator		INSPECTION TYPE	
	B3. Failure to respond to PMCL/TT violation		C6. Improper interruption/repair		FULL	X
	B4. Failure to comply with an Order		C7. Failure to comply with permit condition		PARTIAL	
	B5. Failure to obtain a permit	X	D1. Reports/Records/Maps		COMPLAINT	
	B6. Other significant deficiencies		E1. Other		FOLLOWUP	

NARRATIVE

During the original inspection on May 4, 2021 I met with Art Heckman – Dir.Operations. The system has one well on site for process water and a 3/4 inch line from PA – American for potable water. The DEP was informed that PA – American stopped potable service on 13 – Apr – 21. The facility is currently using the well on site that has never been approved as a public water supply. During the walk through secondary treatment was observed in the two break rooms. Two water dispensers from innowave displayed they contained UV treatment and one of the units included filtration. During the inspection a Field Order was delivered requiring the system to issue a Tier 1 – Do Not Consume – notice. Four copies of the Do Not Consume notice were provided also.

* This is a revised copy of the May 4, 2021 inspection report. It has been revised to add the marking of the A3 violation for operation of an unapproved source to serve a facility that meets the definition of a public water system. We have confirmed the existing well at the site has never been used for public water supply service and is NOT approved for such service.

WATER QUALITY SAMPLING POINT LOCATION	SAMPLE NUMBER	pH	CHLORINE		TURBIDITY	OTHER	COLLECTION TIME	SAC #
			F	T				

Art Heckman Jr
 RECEIVED BY (PRINT NAME)

Kristopher Gilham
 INVESTIGATOR (PRINT NAME)

 SUPV. INITIALS

[Signature] 5-26-21
 RECEIVED BY (SIGNATURE AND DATE)

Kristopher Gilham 5/24/21
 INVESTIGATOR (SIGNATURE AND DATE)

 PADWIS UPDATED

- White - District Office Yellow - Regional Office Pink - Public Water Supplier

VIOLATION	REGULATION REFERENCE
Imminent Threat Violations	
A1. Failure to respond to an emergency situation (includes: waterborne disease outbreaks, waterborne emergencies, spills or prolonged water outages).	109.4, .408, .701(a)(3)
A2. Failure to provide or significant interruption in key water treatment processes (includes: disinfection, filtration or nitrate removal).	109.4(2), .202(c), .1203, .1302, .1307(a)(1)(ii)
A3. Failure to respond to an acute violation/situation (includes: reporting to DEP, public notification, investigation of cause and corrective measures for the following acute violations: TT violation of CFE max. allowable turbidity, TT violation for <i>Cryptosporidium</i> , breakdown in treatment for GW sources, MRDL exceedance of chlorine dioxide, MCL exceedance of nitrate/nitrite, MCL exceedance for total coliform w/ fecal coliforms or <i>E. coli</i> present, or finished water turbidity exceedance for unfiltered SW).	109.4, .408, .701(a)(3), .1307(a)(1)(ii)
Priority Violations	
B1. Failure to provide an adequate supply of water (includes: source, storage and distribution system inadequacies).	109.602, .603
B2. Failure to provide acceptable minimum disinfectant residual throughout the distribution system.	109.710
B3. Failure to respond to non-acute PMCL or treatment technique violation (includes: reporting to DEP, public notification, investigation of cause/ corrective actions).	109.4, .202, .409, .701(a)(3), .1102(b)(1), .1203, .1302
B4. Failure to comply with an Order issued by the DEP.	Section 13(a) of Act 43 (SDWA)
B5. Failure to obtain a permit, innovative technology permit, major permit amendment, or emergency permit.	109.501-.507, .1105
B6. Other violations deemed to be significant deficiencies (M/R violations such as chronic failure to monitor, selective reporting, data recorder malfunctions; facility/administrative violations that are contributing to an imminent threat/priority violation or are chronic/persistent).	109.4, .301, .303, .701, .1303
Facility Violations	
C1. Failure to meet design and construction standards.	109.602-609, .611-.612
C2. Failure to conduct performance monitoring or monitoring for accredited-by-rule parameters (such as fluoride, turbidity, residual disinfectant, WQPs, etc.) OR failure to use approved methods for accredited-by-rule parameters.	109.301, .301(7)(iii)(F), .304(c), .1103, .1305(a)
C3. Failure to provide level of treatment as designed and permitted, failure to filter to waste.	109.703
C4. Failure to operate and maintain the water system or implement O&M Plan.	109.4, .702
C5. Failure to obtain an operator with the appropriate certification.	109.4, .704
C6. Improper interruption and repairs, failure to disinfect facilities.	109.708, .711
C7. Failure to comply with a permit condition.	109.504(c)
Administrative Violations	
D1. Failure to maintain/submit: daily plant records, sample siting plan, water supplier complaint log, water supplier sanitary surveys, operation and maintenance plan, distribution map, emergency response plan or cross-connection control plan.	109.701, .702, .705, .706, .707, .709, .1107
E1. Violations of other Safe Drinking Water Regulations (examples: PMCL/MRD/TT, SMCL, unregulated contaminants, M/R, special monitoring)	109.202, .203, .301 or .302



May 27, 2021

VIA ELECTRONIC MAIL

Mr. Salomon Weider
Birdsboro Kosher Farms
1100 Lincoln Rd.
Birdsboro, PA 18508
Email: art@bkfcorp.com; sam@bkfcorp.com;

Re: Industrial Waste 4-A
Birdsboro Kosher Farms
NPDES Permit No. PAR123564
Exeter Township, Berks County

On May 21, 2021, the Pennsylvania Department of Environmental Protection (Department) became aware that Birdsboro Kosher no longer had the ability to discharge the industrial waste and sewage generated at its chicken processing facility (Facility) to the Exeter wastewater treatment plant for treatment. The Department's regulations at PA Code 25 §91.34 requires persons engaged in activities utilizing pollutants to comply with the following:

§ 91.34. Activities utilizing pollutants.

(a) Persons engaged in an activity which includes the impoundment, production, processing, transportation, storage, use, application or disposal of pollutants shall take necessary measures to prevent the substances from directly or indirectly reaching waters of this Commonwealth, through accident, carelessness, maliciousness, hazards of weather or from another cause.

(b) The Department may require a person to submit a report or plan for activities described in subsection (a). Upon notice from the Department and within the time specified in the notice, the person shall submit to the Department the report or plan setting forth the nature of the activity and the nature of the preventative measures taken to comply with subsection (a). The Department will encourage the use of pollution prevention measures that minimize or eliminate the generation of the pollutant over measures which involve pollutant handling or treatment. The Department will encourage consideration of the following pollution prevention measures, in descending order of preference, for environmental management of wastes: reuse, recycling, treatment and disposal.

Since Birdsboro Kosher no longer has a method of disposing of the wastewater generated at the Facility, the Department is requesting in accordance with PA Code 25 §91.34(b), that prior to

resuming production you submit a report to the Department that describes what measures you are taking to prevent the pollutants generated at your facility from directly or indirectly reaching waters of this Commonwealth, through accident, carelessness, maliciousness, hazards of weather or from another cause. At a minimum this report should include the following:

1. Description and volume of wastewater generated at Facility daily. Actual production records should be used.
2. Documentation that there is sufficient storage to hold three days of flow from the Facility. Actual wastewater meter flow data should be used if available.
3. A description of the storage system which includes documentation that the system will be equipped with a warning device to indicate when the system is filled to within 75% of its capacity. The warning device shall create an audible and visual signal at a location frequented by the responsible individual.
4. A contract or written agreement with a waste hauler to haul wastewater as needed to prevent overflows.
5. A contract or written agreement with a facility that is authorized and has the capacity to receive the hauled wastewater. Currently it is the Department's understanding that sewage is comingled with the industrial waste which limits your land application options.
6. If you intend to land apply the wastewater, provide documentation that industrial wastewater is not comingled with sewage.
7. If land application is proposed, include a description of how you will meet the requirements of the Department's Food Processing Residual Management Manual. The manual is available online at www.dep.pa.gov.
8. By June 15, 2021, submit a Corrective Action Plan (CAP) with an implementation schedule for the long-term disposal of wastewater generated at the Plant.

The Department believes that "pumping and hauling" waste is not an effective long-term solution to handling your wastewater. It is in your best interest to get re-connected to the Exeter wastewater collection system as soon as possible.

If you have any questions, please contact Kevin Buss at 717-705-4650.

Sincerely,

/s/ Victor Landis

Victor Landis
Environmental Group Manager
Clean Water Program