

# Notice of Violation

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Issued to: George Rodriguez, Sr., Owner  
Partner's Produce, Inc.  
2150 NE 21<sup>st</sup> Avenue  
Payette, Idaho 83661

Partner's Produce, Inc. (Partner's Produce) owns an onion processing facility (the Facility) located at 2150 NE 21<sup>st</sup> Avenue in the community of Wood, Payette County, Idaho. The Facility produces industrial wastewater, as that term is defined in the Wastewater Rules, IDAPA 58.01.16. Industrial wastewater produced by the Facility is typically hauled offsite to Clay Peak Landfill.

In April of 2020, the Department of Environmental Quality (DEQ) received a citizen complaint. The citizen reported that Partner's Produce was discharging wastewater to impoundments onsite, wastewater was flowing from the impoundments into an agricultural drainage ditch alongside the Facility property, and that a nearby domestic drinking water well exhibited an onion-like odor. DEQ responded to the complaint by conducting a site visit to investigate the alleged actions. During the site visit, DEQ observed industrial wastewater and debris, which exhibited a strong odor, in four storm water impoundments on the Facility property. The impoundments appeared to have bank erosion and to have been recently disturbed by a point source discharge. These impoundments were apparently built to store and dispose of storm water runoff from buildings and surrounding paved areas. DEQ did not provide any approval prior to Partner's Produce building the impoundments or discharging wastewater into the impoundments.

Also during the site visit, it was observed that several barrels of what appeared to be used oil were being stored outside of a building on the north end of the property. The barrels were labeled "refrigeration oil" and evidence of spillage or leakage was apparent. Residue stains were visible on the pavement leading in the direction of the north impoundment and drainage ditch. Used oil is required to be handled in accordance with the Rules and Standards for Hazardous Waste, IDAPA 58.01.05.

The Facility is located above a general resource aquifer. In accordance with the Idaho Ground Water Quality Rule 58.01.11.301.02.a, activities with the potential to degrade such aquifers must be managed in a way that maintains or improves existing ground water quality. It does not appear that the industrial wastewater produced at the Facility is monitored for either quality or quantity, nor has ground water quality been monitored. The duration of improper wastewater discharge is unknown. Therefore, the extent of soil and ground water impact is similarly unknown.

Partner's Produce and Clay Peak Landfill approached DEQ in recent months, during the period of violation, to learn what would be required for Partner's Produce to obtain a reuse permit for land application of the Facility's wastewater, and DEQ explained the requirements and the application process. DEQ spoke with representatives of Clay Peak Landfill and Payette County on January 31, 2020, and with Mr. George Rodriguez, Sr. on February 20, 2020. It was not made clear to DEQ in either conversation that wastewater from the Facility was not currently being accepted at Clay Peak Landfill.

Previously, in 2014, DEQ also became aware that Partner's Produce had pumped wastewater from the Facility to impoundments onsite. At that time, DEQ worked with Partner's Produce to come into compliance with DEQ's Wastewater Rules and explained what would be required to properly manage wastewater. DEQ has informed Partner's Produce that this improper method of handling wastewater does not comply with DEQ's rules and explained the process and requirements for obtaining a permit on multiple occasions. Therefore, this is the second time these types of violations have occurred.

Pursuant to the Idaho Environmental Protection and Health Act, Idaho Code § 39-108, DEQ has determined that the following violations have apparently occurred at Partner's Produce's Facility.

## Violations

### Violation Number 1

Legal provision violated: IDAPA 58.01.11.301.02.a

This legal provision states, in part:

#### **301. Management of Activities with the Potential to Degrade Aquifers.**

##### **02. General Resource Category Aquifers.**

- a. Activities with the potential to degrade General Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical except when a point of compliance is set pursuant to Section 401.

Partner's Produce failed to use best management practices and best practical methods when discharging industrial wastewater to the unlined storm water impoundments. The discharge has potential to degrade the General Resource aquifers in the area. Best management practices, which did not occur, could include wastewater quality monitoring, wastewater flow monitoring, soil monitoring, and ground water monitoring. No practices or methods were put in place to protect ground water from degradation. This violation constitutes a major deviation and a moderate potential for harm. Therefore, the following penalty is being assessed.

Penalty assessed for this violation: \$10,000.00

### Violation Number 2

Legal provision violated: IDAPA 58.01.11.400.01.c

This legal provision states, in part:

#### **400. Ground Water Contamination.**

- 01. Releases Degrading Ground Water Quality.** No person shall cause or allow the release, spilling, leaking, emission, discharge, escape, leaching, or disposal of a contaminant into the environment that:

- c. Is not in accordance with a permit, consent order or applicable best management practice, best method available or best practical method.

Partner's Produce discharged contaminants in the form of a waste, specifically industrial wastewater, without obtaining a permit or following best management practices, best methods available, or best

practical methods, a violation of the Idaho Ground Water Quality Rule. This violation constitutes a moderate deviation and moderate potential for harm. Therefore, the following penalty is being assessed.

Penalty assessed for this violation: \$7,500.00

### **Violation Number 3**

Legal provision violated: IDAPA 58.01.17.300.01

This legal provision states, in part:

#### **300. Permit Requirements and Application**

**01. Permit Required.** No person shall construct, modify, operate, or continue to operate a reuse facility without a valid permit issued by the Director as provided in these rules.

Partner's Produce's industrial wastewater receives treatment through reverse osmosis and filtration. The treated industrial wastewater was then discharged via land application into the impoundments on the Facility property. Therefore, the land application of the industrial wastewater is subject to IDAPA 58.01.17, "Recycled Water Rules," and Partner's Produce needed a permit for its operation of a reuse facility. Partner's Produce failed to obtain a reuse permit for the land application of this industrial wastewater. This violation constitutes a major deviation and major potential for harm. Therefore, the following penalty is being assessed.

Penalty assessed for this violation: \$10,000.00

### **Violation Number 4**

Legal provision violated: IDAPA 58.01.16.401.01

This legal provision states:

#### **401. Review of Plans for Nonmunicipal Wastewater Treatment or Disposal Facilities.**

**01. Plan and Specification Approval Required.** The construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department. Deviations may be allowed as provided in Subsection 401.02.

Partner's Produce constructed nonmunicipal wastewater disposal facilities, as that term is defined in IDAPA 58.01.16, without prior DEQ review and approval of plans and specifications for said facilities. In particular, Partner's Produce constructed impoundments meant to be used to dispose of the industrial wastewater produced at the Facility. This violation constitutes a major deviation and major potential for harm. Therefore, the following penalty is being assessed.

Penalty assessed for this violation: \$6,250.00

## Violation Number 5

Legal provision violated: IDAPA 58.01.17.614

This legal provision states, in part:

- 614. Ground Water Recharge: Class A Recycled Water.** All ground water recharge systems shall comply with IDAPA 58.01.11, "Ground Water Quality Rule." The minimum requirements for site location and aquifer storage time shall be based on site-specific modeling and any source water assessment zone studies for public drinking water wells in the area. The owners of these systems must control the ownership of this down gradient area to prohibit future wells from being drilled in the impact zone of the ground water recharge system. Authorization from the Idaho Department of Water Resources is required for ground water injection wells.

Partner's Produce discharged treated industrial wastewater (recycled water) into unlined impoundments. The direct discharge of treated industrial wastewater into unlined storm water impoundments in the manner which it was applied is considered Ground Water Recharge, as defined by IDAPA 58.01.17.200.09: "the process of adding recycled water to the zone of saturation". The Facility failed to meet the minimum requirements prior to initiating the discharge. This violation constitutes a major deviation and minor potential for harm. Therefore, the following penalty is being assessed.

Penalty assessed for this violation: \$5,000.00

## Violation Number 6

Legal provision violated: IDAPA 58.01.05.015 [40 CFR§ 279.22(c)]

IDAPA 58.01.05.015, which incorporates 40 CFR § 279.22(c) by reference, states in relevant part:

(c) Labels.

- (1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

The Facility stored used oil in containers that did not adhere to this requirement. At the time of the April 9, 2020 complaint inspection, the Facility failed to label nine (9) 55-gallon containers of used oil, located in the north end of the property with the words "Used Oil".

Although this violation occurred, the Facility resolved the issue expediently. Therefore, a penalty is not being assessed for this violation.

Penalty assessed for this violation: \$0.00

## Violation Number 7

Legal provision violated: IDAPA 58.01.05.015 [40 CFR§ 279.22(d)]

IDAPA 58.01.05.015, which incorporates 40 CFR § 279.22(d) by reference, states in relevant part:

- (d) Response to releases. Upon detection of a release of used oil to the environment... a generator must perform the following cleanup steps:

- 1) Stop the release;
- 2) Contain the released used oil;

- 3) Clean up and manage properly the released used oil and other materials; and
- 4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

The Facility failed to address an apparent release as required by these rules. At the time of the April 9, 2020 inspection, evidence of multiple releases of used oil to the environment was observed at the Facility in the north end of the property, where used oil containers were observed in storage. Heavy oil stains on the concrete were noted in this area. The Facility failed to stop, contain, clean up, and properly manage the used oil releases.

Although this violation occurred, the Facility resolved the issue expediently. Therefore, a penalty is not being assessed for this violation.

Penalty assessed for this violation: \$0.00

**Total Penalty Assessed: \$38,750.00**

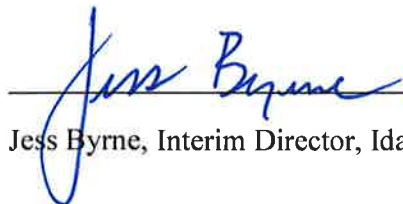
## Timetable

You are advised to request a compliance conference with the Department to explain the violations and discuss entering into a Consent Order. A Consent Order is an agreement that includes a plan to remedy any damage caused by a violation, pay an assessed penalty, and assure future compliance. To arrange a compliance conference, you must contact the Department within fifteen (15) days of receipt of this Notice of Violation. The compliance conference shall be held within twenty (20) days of the date of receipt of this Notice of Violation unless a later date is agreed upon between the parties. Failure to request a compliance conference within fifteen (15) days or reach agreement on a Consent Order within sixty (60) days of receipt of this Notice of Violation may result in a civil enforcement action in district court for penalties, injunctive relief, and costs, including attorney fees.

Inquiries or correspondence concerning this Notice of Violation shall be directed to the following:

Tom Talley, P.E.  
Senior Water Quality Engineer, Wastewater Quality Division  
Idaho Department of Environmental Quality  
1410 North Hilton  
Boise, Idaho 83706

DATED THIS 18<sup>th</sup> day of August 2020



Jess Byrne, Interim Director, Idaho Department of Environmental Quality