

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF

Partner's Produce, Inc.
2150 NE 21st Avenue
Payette, ID 83661

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CONSENT ORDER
Idaho Code § 39-108

FINDINGS AND CONCLUSIONS

1. Pursuant to the Idaho Environmental Protection and Health Act (EPHA), Idaho Code § 39-108, the Department of Environmental Quality (Department) enters into this Consent Order with Partner's Produce, Inc. located in the community of Wood, Payette County, Idaho.
2. Partner's Produce, Inc. is registered to do business in Idaho and owns and operates an onion processing facility in Wood, Idaho. Partner's Produce, Inc. will be referred to as "Partner's Produce".
3. Partner's Produce generates industrial wastewater from onion processing. The industrial wastewater is understood to be filtrate from the in-plant reverse osmosis system. Partner's Produce operates at 2150 NE 21st Avenue, hereinafter referred to as the "Facility Property."
4. On April 9, 2020, the Department conducted a site visit of the Partner's Produce facility after receiving a citizen complaint of foul odors and liquid discharge to impoundments on the Facility Property. Information obtained through the site visit and otherwise available to the Department revealed apparent violations of the Rules and Standards for Hazardous Waste (IDAPA 58.01.05), Ground Water Quality Rule (IDAPA 58.01.11), the Wastewater Rules (IDAPA 58.01.16), and the Recycled Water Rules (IDAPA 58.01.17).
5. By Notice of Violation (NOV) dated August 18, 2020, the Department notified Partner's Produce of these alleged violations. The Department provided Partner's Produce with the opportunity for a compliance conference to discuss correction of the alleged violations and entry into a Consent Order with the Department. The NOV is hereby incorporated into this Consent Order by reference.
6. On September 21, 2020, a compliance conference was held between representatives of Partner's Produce and the Department. Partner's Produce responded to each alleged violation cited and presented actions taken or proposed to achieve compliance.

7. To resolve this matter without litigation or further controversy, and without admitting to any of the violations listed in the August 18, 2020 NOV, Partner's Produce agrees to the provisions of this Consent Order and the following terms and actions:

CONSENT ORDER REQUIREMENTS

8. Partner's Produce agrees to dispose of industrial wastewater generated by the onion processing facility only at treatment or disposal facilities that are approved to accept such wastewater.
9. Partner's Produce or their engineering representative shall submit plans and specifications for any proposed modifications to the industrial wastewater system prior to construction, as required by Idaho Code § 39-118. Such modifications include, but are not limited to, clarifiers for the industrial wastewater system or any other modifications whether intended as pilot studies or for full implementation. Plans and specifications for such modifications must be reviewed and approved by the Department prior to construction.
10. Partner's Produce agrees to secure a reliable secondary offsite facility to dispose of industrial wastewater when the primary offsite facility (Clay Peak Landfill) refuses to accept it. Verification of this shall be submitted to the Department in writing within 30 days from the execution date of this Consent Order. Partner's Produce agrees to notify the Department immediately if the secondary offsite facility ever refuses to accept their industrial wastewater.
11. Partner's Produce shall submit load invoices or other proof of receipt provided by the primary and/or secondary offsite wastewater disposal facilities. Proof of receipt shall be submitted for each month of calendar year 2021 when wastewater is hauled offsite. The proof of receipt for each month shall be submitted to the Department on or before the tenth day of the following month.
12. Partner's Produce shall begin measuring the volumetric flow of industrial wastewater generated by the reverse osmosis system and any other point of discharge from the processing facility. These flows should account for any industrial wastewater discharge that is not reused as process water. Flow for each month shall be reported (in gallons per month) to the Department on or before the tenth day of the following month. Flow reporting shall occur each month of calendar year 2021.
13. Partner's Produce shall provide the Department with an updated facility site map that clearly identifies the location of industrial wastewater treatment facilities, onsite storm water appurtenances (including swales, basins, etc.), municipal wastewater facilities such as the LSAS, and ground water production wells. Compliance with this requirement shall be achieved no later than February 1, 2021.
14. Partner's Produce shall submit to the Department a flow schematic clearly identifying all aspects of water treatment, generation, and internal reuse, as well as the discharge

point(s) of industrial wastewater that is ultimately disposed of offsite. The flow schematic shall be generated, signed, and sealed by a Professional Engineer licensed in the State of Idaho. Compliance with this requirement shall be achieved no later than February 1, 2021.

15. Record documentation provided by the Southwest District Health Department appears to indicate that a large soil absorption system (LSAS) on the Facility Property may have been paved over with asphalt. Partner's Produce shall contact the Southwest District Health Department and schedule an onsite inspection of the LSAS. Compliance with this requirement shall be achieved no later than February 1, 2021.

16. Beginning January 1, 2021, Partner's Produce shall collect grab samples from the discharge point of their industrial wastewater system where it is put into vessels and hauled offsite. These samples shall be collected on different days twice per month. If hauling offsite for disposal only occurs on one day per month, then only one sample is required. Partner's Produce shall have the samples analyzed for the following constituents and shall report all results in terms of milligrams per liter (mg/L):

- Nitrate
- Total Nitrogen
- Ammonia
- Total Phosphorus
- Orthophosphorus
- Chemical Oxygen Demand
- Total Dissolved Solids
- Total Suspended Solids

Results of laboratory analyses shall be submitted to the Department within two business days of being received from the laboratory and shall include the date each sample was collected.

INSPECTIONS

17. Pursuant to Idaho Code § 39-108 and this Consent Order, the Department may conduct inspections or site visits that the Department determines necessary to verify compliance with all applicable requirements in this Consent Order.

PENALTIES

18. The August 18, 2020 NOV assessed a total civil penalty of \$38,750.00. As a result of Partner's Produce's good faith efforts to resolve the aforementioned violations and to prevent future occurrences, the Department has determined to allow a 50% reduction in assessed penalties.

19. Partner's Produce will pay the Department a civil penalty of \$19,375.00 for the alleged violations.

20. Partner's Produce must pay the Department within 15 days of the effective date of this Consent Order.
21. The penalty payment must be made to the Idaho Department of Environmental Quality. Please pay by check to the following address:

Accounts Receivable – Finance Office
Wastewater Penalty Payment
Idaho Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706-1255

The check should state that this payment is on behalf of Partner's Produce, Inc., for the Wastewater Program.

STIPULATED PENALTIES

22. In the event that Partner's Produce fails to comply with any of the requirements appearing in this Consent Order, Partner's Produce will be in violation of this Consent Order and must pay a stipulated penalty of up to \$10,000.00 for each violation and a stipulated penalty of up to \$1,000.00 s for each day of a continuing violation, until the violation is corrected or the Consent Order requirement is met. Stipulated penalties will begin to accrue upon the day a violation occurs or on the day after complete performance is due. The stipulated penalty is representative of a forfeiture of good faith effort.
23. Partner's Produce must provide the stipulated penalty payment to the Department within 30 days of receiving written notice from the Department.
24. Stipulated penalty payments will be made in accordance with Paragraph 21 above.
25. Payment of the stipulated penalty under this Section does not relieve Partner's Produce of any of its obligations under this Consent Order, and does not preclude the Department from seeking any other relief available under law and equity.

CORRESPONDENCE

26. All correspondence sent by Partner's Produce to the Department regarding this Consent Order must be addressed to:

Valerie Greear, P.E., Engineering Manager
Idaho Department of Environmental Quality
1445 North Orchard Street
Boise, Idaho 83706

27. All correspondence sent by the Department to Partner's Produce regarding this Consent Order should be addressed to:

Mr. George Rodriguez, Sr., Owner
Partner's Produce, Inc.
2150 NE 21st Avenue
Payette, Idaho 83661

28. Unless specifically cited herein or in rule or statute, the following document submittal and review process (Submittal Review Process) will be followed regarding submittals required of this Consent Order. This process must be followed until the Department approves the document or the document review time frame expires, whichever comes first.

- A. After receipt of a submittal from Partner's Produce, the Department will 1) notify Partner's Produce in writing that the document is approved or 2) notify Partner's Produce in writing of any deficiencies in the document. If the Department notifies Partner's Produce of deficiencies in the document, Partner's Produce will submit a revised document to resolve those deficiencies within 30 calendar days of receipt of the Department's notice.
- B. The Submittal Review Process may be repeated until the Department notifies Partner's Produce the document is approved. However, the submittal must receive the Department's approval within 180-calendar days from the due date for the first submittal of the document, unless the Department provides Partner's Produce with a written extension of the 180-day time frame. The failure of Partner's Produce to obtain the Department approval of a submittal within such time frames will constitute a violation of this Consent Order.
- C. If the date on which a submittal or other communication is due falls on a Saturday, Sunday, or federal holiday, the submission deadline the next business day.
- D. Each document approved by the Department under the Submittal Review Process, or otherwise submitted pursuant to this Consent Order, is incorporated into and enforceable as a part of this Consent Order.
- E. All submittals required of Partner's Produce pursuant to this Consent Order must be submitted to the Department in electronic format unless requested otherwise.

STANDARD PROVISIONS

29. This Consent Order does not relieve Partner's Produce from its obligation to comply with any of the provisions of EPHA, Rules and Standards for Hazardous Waste (IDAPA 58.01.05), Ground Water Quality Rule (IDAPA 58.01.11), the Wastewater

Rules (IDAPA 58.01.16), and the Recycled Water Rules (IDAPA 58.01.17), or other applicable local, state, or federal laws and regulations.

30. This Consent Order binds Partner's Produce, its successors, and assigns until the terms of the Consent Order are met to the Department's satisfaction, and the Department terminates the Consent Order in writing.
31. If Partner's Produce fails to comply with the terms of this Consent Order, the Department may seek and obtain, in any appropriate district court, specific performance of the Consent Order and other relief as authorized in the EPHA.
32. If any event occurs that causes or may cause delay in the achievement of any requirement of this Consent Order, Partner's Produce must notify the Department in writing within 10 calendar days of the date Partner's Produce knew, or should have known, of the delay.
 - A. Any notice under this paragraph will describe in detail the cause of the delay, the anticipated length of the delay, all anticipated consequences of the delay, the start date of the event or date of discovery, and measures taken by Partner's Produce to prevent or minimize the delay, and a timetable by which those measures will be implemented.
 - B. Partner's Produce must use all reasonable measures to avoid or minimize any such delay. If the Department determines that the delay or anticipated delay in achieving any requirements of this Consent Order has been or will be caused by circumstances beyond the reasonable control of Partner's Produce, the Department may grant an extension for a period equal to the length of the delay.
 - C. The burden of proving that any delay is caused by circumstances beyond the reasonable control of Partner's Produce rests wholly with Partner's Produce.
33. If Partner's Produce wishes to seek an extension of any deadline contained in this Consent Order, it must make a written request to the Department. The written extension request must explain the reasoning for the request and state the length of extension requested. Any extension provided by the Department will be in writing, in response to the request.
34. If Partner's Produce violates the terms of this Consent Order, the Department will provide written notice to Partner's Produce describing the violation. No later than 10 calendar days after receiving the notification, Partner's Produce must reply to the Department in writing to explain the violation and provide a date in which the violation will be cured, to the Department's satisfaction.

35. A waiver or decision by the Department to not enforce any provision, term, condition, or requirement of this Consent Order does not constitute a waiver of any other provision, term, condition, or requirement.
36. Each person signing this Consent Order certifies that they have the authority to sign for the party represented and to bind that party to its terms.
37. In case any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Consent Order will remain in force and will not be affected.
38. If Partner's Produce sells, offers the Facility Property (or any portion thereof) for sale, or otherwise transfers ownership before completion of the requirements of the Consent Order and termination thereof, Partner's Produce must notify any prospective purchaser of the terms and conditions of this Consent Order and the current status of completion of the requirements of this Consent Order. Partner's Produce must also provide notice to the Department of the offer for sale and identify new owners at least 10 calendar days before closing any sale or transfer of the Facility Property or any portion thereof.
39. Sale or transfer of the Facility Property or any portion thereof by Partner's Produce does not relieve Partner's Produce of its obligation to complete the terms and conditions of this Consent Order unless appropriate arrangements are made with the purchaser or receiver of the Facility Property for assignment of the obligations of this Consent Order and the Department consents in writing to the assignment of the obligations of this Consent Order to the new owner.
40. This Consent Order sets forth the entire agreement related to the subject matter of this Consent Order and may not be modified without written consent of all parties.
41. This Consent Order resolves Partner's Produce liability for civil penalties for only the violations and facts alleged in this Consent Order.
42. This Consent Order does not affect the right of the Department or the State of Idaho to pursue appropriate relief for any other violation of law, including civil penalties, injunctive or other equitable relief, or criminal sanctions.
43. Partner's Produce agrees that this Consent Order will be admissible as evidence in any proceeding to enforce this Consent Order.

EFFECTIVE DATE AND TERMINATION

44. The effective date of this Consent Order is the date of the signature by the Department Director.

45. Upon request by Partner's Produce, this Consent Order may be terminated if the Department determines that all consent order requirements and payment of all penalties are complete.

Table 1. Consent Order requirements and deadlines.

Requirement	Paragraph	Deadline
Submit plans and specifications for industrial wastewater system modifications.	9	Prior to construction
Submit verification that a reliable secondary facility will accept industrial wastewater hauled offsite.	10	Within 30 days of the effective date of CO
Submit monthly load tickets for industrial wastewater hauled offsite to primary or secondary disposal facilities.	11	Tenth day of the following month (beginning January 2021)
Report monthly volumetric flow discharged from the industrial wastewater system (excluding internal reuse).	12	Tenth day of the following month (beginning January 2021)
Submit facility site map.	13	February 1, 2021
Submit flow schematic.	14	February 1, 2021
Schedule inspection with SWDH.	15	February 1, 2021
Submit laboratory analysis results from grab samples collected monthly from offsite disposal wastewater.	16	Monthly, within 2 days of receiving lab results
Submit penalty payment.	19 & 20	Within 15 days of the effective date of the CO

DATED THIS _____ day of _____, 2020

Mr. George Rodriguez, Sr.
Owner, Partner's Produce, Inc.

DATED THIS _____ day of _____, 2020

Jess Byrne
Director, Idaho Department of Environmental Quality