

ENVIRONMENTAL PROTECTION DIVISION
OF THE
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA

IN RE: LHR FARMS, INC.
LAND APPLICATION SYSTEM

ORDER NO. EPD-WQ-5030

CONSENT ORDER

WHEREAS, LHR Farms, Inc. ("LHR") operates a waste disposal facility at 425 Joe Turner Drive in Cleveland, Georgia ("Facility") for "domestic septage" as defined in 391-3-6-.23(2)(i) of the Georgia Rules and Regulations for Water Quality (Rules) and 40 C.F.R. § 503.9(f) of the Federal standards for use or disposal of sewage sludge. The Facility also accepts for treatment and disposal "commercial wastes" as defined in Rule 391-3-6-.24(2)(b) which, when combined with disinfected domestic septage, may be further treated and disposed of as commercial waste pursuant to an exclusion in Federal rules at 40 C.F.R. § 503.6(j) and the definition of commercial wastes at rule 391-3-6-.24(2)(b)(i); and

WHEREAS, land application of domestic septage has occurred at the Facility since 1996 under the initial regulatory supervision of the White County Department of Public Health, but Georgia law was changed in 2002 to require that EPD regulate septage disposal facilities rather than county health departments; and

WHEREAS, Georgia Law at O.C.G.A. § 12-8-41 was again changed in 2005 to eliminate the county approval requirement for such existing facilities and to grant EPD the sole authority for permitting new and existing facilities; and

WHEREAS, the 2007 Order allows LHR to land apply treated commercial wastes via spray irrigation at the Facility; and

WHEREAS, the 2007 Order requires that treated effluent meet limits for fecal coliform bacteria and daily flow, and be applied at agronomic rates, that monthly reports be submitted to EPD containing the sampling results for treated effluent and groundwater and that the application of treated effluent is not allowed during a rain event; and

Whereas, Rule 391-3-1-.11(4)(e) states that groundwater leaving the land disposal system's boundaries must not exceed the drinking water primary maximum contaminant levels; and

WHEREAS, the Facility has historically reported elevated total nitrogen data above drinking water standards from Well No. 1, an interior well within the boundaries of the Facility, and this well needs to be further investigated and a corrective action plan proposed to address such data; and

WHEREAS, on April 8, 2008, EPD inspected the Facility and conducted sampling of the groundwater, surface water, waste, and treated effluent and performed a review of the 2008 manifests for wastes received at the Facility; and

WHEREAS, since the execution of the 2007 Order, LHR has reported, and EPD has identified during its April 8, 2008, inspection, alleged violations of the 2007 Order and the Rules; and

WHEREAS, these alleged violations were cited in a June 23, 2008, Notice of Violation (NOV) issued to LHR; and

WHEREAS, the parties have met and the Facility has provided its explanation for operational issues noted in the June 23, 2008, NOV; and

WHEREAS, regardless of these new requirements for septage management, Rule 391-3-6-.11 establishes the permit and treatment requirements for land treatment systems that propose discharge to waters of the State; and

WHEREAS, the Facility has pursued permitting under Rule 391-3-6-.11, submitting a Design Development Report (DDR) and application for a Land Application System (LAS) permit on October 24, 2007, and subsequently a revised DDR and LAS application on March 7, 2008; and

WHEREAS, LHR is also subject to the Georgia Water Quality Control Act (O.C.G.A. 12-5-20 et. seq); and

WHEREAS, O.C.G.A. § 12-8-41 was further amended in 2007 to provide that facilities accepting septage before June 30, 2007, may continue to operate under a valid permit issued before such date by the Department of Human Resources under O.C.G.A. § 31-2-8 until July 1, 2012. On March 7, 1996, pursuant to O.C.G.A. § 31-2-8, the White County Department of Public Health was delegated authority to issue LHR a permit ("1996 Permit") authorizing LHR to land apply domestic septage at the Facility; and

WHEREAS, on April 7, 2006, EPD authorized LHR to treat and dispose of commercial wastes ("2006 Authorization") at the Facility pursuant to Rule 391-3-6-.24(8)(c); and

WHEREAS, on October 29, 2007, Consent Order No. EPD-WQ-4806 ("2007 Order") was executed between LHR and the Environmental Protection Division ("EPD") as a temporary means to regulate the Facility and to require an application for permitting this Facility; and

WHEREAS, Section 12-5-52(a) of the Act specifies that any person violating any provision of the Act or limitation established pursuant to the Act, or failing to comply with any final order of EPD's Director, shall be liable to the State of Georgia for a civil penalty not to exceed \$50,000 per day for each day during which such violation continues; and

WHEREAS, Section 12-5-42(c) of the Act provides the Director the power to issue orders as may be necessary to control, abate, and prevent pollution of the waters of the State; and

WHEREAS, the parties desire to cooperate in resolving these issues.

NOW, THEREFORE, the Director ORDERS and LHR AGREES to do the following:

1. Within 60 days of the execution date of this Order, submit to EPD for review and approval Standard Operating Procedures for:
 - a. Ensuring that the maximum daily flow limit of 100,000 GPD provided in the 2007 Order is not exceeded.
 - b. Ensuring that spray irrigation does not take place during a rain event.
 - c. Ensuring that the wastes accepted for disposal at the Facility are either commercial wastes or septage. This procedure should include a provision to obtain a generator waste profile for the generator of all wastes, describing any commercial waste and certifying that the waste meets the definition of commercial waste.
 - d. Ensuring that wastes placed in the underground tanks will be removed and processed within seven days of receipt.
2. Within 30 days of the execution date of this Order, submit to EPD for review and approval, a corrective action plan to ensure that groundwater leaving the

land disposal system's boundaries does not exceed the drinking water primary maximum contaminant levels.

3. Within 90 days of the execution date of this Order, submit to EPD for review and approval an engineering assessment that has been signed and sealed by a Georgia licensed professional engineer, and which evaluates whether or not the underground storage tanks at the Facility are structurally sound and free of leaks, and suitable to contain wastes.
4. Within 60 days of the execution date of this Order, submit to EPD for review and approval, a plan to determine if the Facility has adequate capacity to assimilate further disposal of wastes in areas where disposal has taken place in the past. The plan should include provisions for sampling to determine if groundwater has been impacted by disposal practices and if the soils still have adequate assimilative capacity.
5. Pay to the Georgia Department of Natural Resources the amount of \$25,000.00 in compromise and settlement of the identified violations arising from the allegations as set forth in the June 23, 2008, NOV. Payment in the form of certified check or money order to the Georgia Department of Natural Resources shall be delivered to the Department at the EPD Watershed Protection Branch, Attn: Permitting, Compliance and Enforcement Program, at 4220 International Parkway, Suite 101, Atlanta, GA 30354, no later than thirty (30) days from the date this Order is executed by the Director.
6. Once approved by EPD, all plans, schedules, and procedures required in the conditions above will be incorporated into this Order. All plans, schedules,

and procedures will be implemented by LHR immediately upon approval by EPD.

7. For each occurrence that LHR fails to comply with a deadline specified in this Order, or to follow any plan, schedule or procedure contained in any approved submission required by, and made a part of this Order pursuant to Condition 6 above, stipulated penalties in the amount of \$2000.00 shall accrue on the day performance was due and every thirty (30) days thereafter if such violation continues until the violation is corrected. The accrual of stipulated penalties may be terminated at any time at the sole discretion of the Director. LHR shall pay said stipulated penalty to the Georgia Department of Natural Resources in the manner described in Condition 5 above no later than the 15th day of the month following the accrual thereof.

This Order does not waive the Director's right to take further enforcement action against Respondent, or imply that the Director will not take such action, either for (1) violations referenced herein if Respondent fails to fully comply with the conditions of this Order, or (2) violations not referenced herein based on any other relevant requirements of this Order, the law, rules, and permit(s), or (3) from using the violations referenced herein, upon sufficient evidence, to show past violations in any subsequent enforcement proceeding.

This Order is executed and entered solely for the purpose of resolving and disposing of the allegations set forth herein and does not constitute a finding, adjudication, or evidence of a violation of any law, rule, or regulation by Respondent, and, by consenting to this Order, Respondent does not admit to any factual allegation contained herein or to any violations of State laws. In addition, this Order is not

intended to create and it shall not be construed or otherwise deemed to recognize or create any claim, right, liability, estoppel, or waiver of rights in favor of any third-party or parties.

By agreement of the parties, this Order shall have the same force and binding effect as a Final Order of the Director, and shall become final and effective immediately upon its execution by the Director. The parties further agree that this Order shall not be appealable by Respondent, and Respondent hereby waives its right to initiate any administrative or judicial hearing on the terms and conditions of this Order.

Unless modified or terminated by a subsequent order, or otherwise specified in writing by the Director, this Order shall be deemed satisfied and terminated upon full, complete, and timely performance of each and every condition set forth herein.

It is so ORDERED, CONSENTED, and AGREED to this 27th day of January, 2008⁹.

FOR THE DIVISION:

Carol A. Couch

Carol A. Couch, Director

FOR LHR:

BY: [Signature]

TITLE: [Signature]

DATE: 12-3-08