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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Hanover Foods Corporation	:	The Clean Streams Law
P.O. Box 334	:	NPDES Permit No. PA0044741
Hanover, PA 17331-0334	:	Penn Township, York County

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement ("COA") is entered into this 3rd day of January, 2017, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and the Hanover Foods Corporation ("Hanover").

FINDINGS

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce The Pennsylvania Clean Streams Law, Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 et seq. ("Clean Streams Law"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 ("Administrative Code") and the rules and regulations promulgated thereunder, and which has been delegated authority to administer the National Pollutant Discharge Elimination ("NPDES") permit program under the Federal Clean Water Act, 33 U.S.C § 1342.

B. Hanover is a Pennsylvania corporation that maintains a business address of P.O. Box 334, Hanover, Pennsylvania 17331-0334.

C. Hanover owns and operates a food processing facility located in Penn Township, York County ("Facility"). Industrial wastewater generated from the facility is treated at an on-site industrial wastewater treatment plant ("Plant"). The Plant discharges treated wastewater both to Penn Township's municipal wastewater treatment plant and to Oil Creek, a water of the Commonwealth. Oil Creek is classified as a Warm Water Fishery under the Department's regulations at 25 Pa Code § 93.9o. The discharge from the Plant into Oil Creek constitutes industrial waste under Sections 301 and 307 of The Clean Streams Law, 35 P.S. §§ 691.301 and 691.307.

D. The discharge of industrial waste from the Plant through Outfall 001 and into Oil Creek, a water of the Commonwealth, is authorized by NPDES Permit No. PA0044741, which

was issued by the Department on September 22, 2015, pursuant to Sections 301 and 307 of The Clean Streams Law, 35 P.S. §§ 691.301 and 691.307. NPDES Permit No. PA0044741 became effective on October 1, 2015, and expires at midnight on September 30, 2020 ("NPDES Permit").

E. On August 20, 2013, the Department and Hanover entered into a Consent Order and Agreement ("2013 COA") to resolve violations of the Clean Streams Law. The 2013 COA included stipulated penalties for violation of certain limits contained in the NPDES Permit. Paragraph 3 of the 2013 COA included the following corrective action schedule:

a) Submission of an administratively and technically complete Water Quality Management Part II Permit ("WQM Part II Permit") application for upgrade of the Plant by October 1, 2013.
b) Awarding a contract for construction of the Plant upgrade by June 15, 2014.
c) Substantial completion of construction of Plant upgrade by November 1, 2015.
d) Completion of a "shakedown" period of the upgraded Plant by June 1, 2016.

F. On October 1, 2013, Hanover submitted a WQM Part II Permit application, satisfying the corrective action in Paragraph 3.a of the 2013 COA.

G. On October 16, 2014, at the request of Hanover, the Department amended the 2013 COA to change due dates in the corrective action schedule. The October 16, 2014 COA Amendment ("2014 COA Amendment") included the following corrective action schedule in Paragraph 5, which amended and superseded Paragraph 3 of the 2013 COA:

a) Award a contract for construction of the Plant upgrade by September 30, 2014.
b) Begin construction of Plant upgrade by June 15, 2015.
c) Substantial completion of construction of Plant upgrade by December 31, 2016.
d) Completion of a "shakedown" period of the upgraded Plant by June 1, 2017.

H. The 2013 COA and 2014 COA Amendment are maintained as public records by the Department in its Southcentral Regional Office in Harrisburg, Pennsylvania, and the findings contained on the 2013 COA and 2014 COA Amendment are incorporated herein by reference. A copy of the 2013 COA is attached as Exhibit 2 and the 2014 COA Amendment is attached as Exhibit 3.

I. On December 31, 2014, Hanover awarded the contract for the construction of the Plant, satisfying the corrective action in Paragraph 5.a of the 2014 COA Amendment.

J. On May 18, 2015 Hanover withdrew the WQM Part II Permit application submitted on August 20, 2013 and submitted a revised WQM Part II Permit application for the upgrade/expansion of the Plant.

K. Part C.I.A of Hanover's NPDES Permit, which became effective on October 1, 2015, contains a schedule of compliance for nitrogen and phosphorus, called the "Chesapeake Bay Schedule," establishing deadlines that Hanover is required to meet to maintain compliance with its NPDES Permit. The schedule of compliance in the NPDES Permit is different than the schedule in the 2014 COA Amendment, as follows:

a) Award a contract for construction of Plant upgrade under approved WQM Part II Permit or begin implementation by October 1, 2015.
b) Submission of quarterly construction or implementation progress reports.
c) Issue certification of substantial completion for upgrade construction at the Plant by October 1, 2017.
d) Compliance with final effluent discharge limitations in Part A.I.G.2 of the NPDES Permit for nitrogen and phosphorus by September 30, 2018.

A copy of Part C.I.A of the NPDES Permit is attached as Exhibit 4.

L. The NPDES Permit contained new effluent discharge limitations for fecal coliform for May 1 through September 30, and for October 1 through April 30, which were not addressed for purposes of stipulated penalties in the 2013 COA or 2014 COA Amendment. The first limitations for fecal coliform in Part A.I.A became applicable October 1, 2015 and apply through September 30, 2017. The current Plant does not contain treatment for fecal coliform, but Hanover's 2016 WQM Part II Permit (as defined below) provides for construction and operation of an ultraviolet system to treat for fecal coliform.

M. Hanover has paid, and the Department has accepted, all required stipulated penalties to fully resolve past violations to date pursuant to the 2013 COA and 2014 COA Amendment, as well as $1,600 to fully resolve violations for fecal coliform from May 1 through September 30 (although no stipulated penalties were specifically assessed for fecal coliform in the 2013 COA and 2014 COA Amendment).

N. On July 20, 2016, the Department inspected the Plant. On that date, the Department discovered that Hanover had begun construction of the Plant upgrade on October 27, 2015, without an approved Water Quality Management ("WQM") Part II Permit and without submitting quarterly construction or implementation progress reports. In response, the Department requested that Hanover cease construction until an approved

WQM Part II Permit was issued by the Department. Hanover voluntarily complied with the Department's verbal recommendation to cease construction.

O. On July 26, 2016, the Department issued WQM Part II Permit No. 6715201 for the upgrade of the Plant ("2016 WQM Part II Permit"). When the Department issued WQM Part II Permit No. 6715201, it also informed Hanover that construction of the Plant upgrade could continue.

P. On July 27, 2016, the Department mailed a Notice of Violation ("NOV") to Hanover for the violation noted in Paragraph N, above. In its NOV, the Department requested that Hanover submit a report summarizing the circumstances leading to the violation, including a timeline of construction activities completed prior to issuance of the WQM Part II Permit.

Q. On August 11, 2016, the Department received a response from Hanover to the July 27, 2016 NOV noted in Paragraph P, above. In its response, Hanover stated that it had begun site construction for the Plant upgrade without an approved WQM Part II Permit in an effort to meet the schedule of compliance included in its NPDES Permit.

R. The construction of new industrial wastewater treatment facilities by Hanover without first obtaining an approved WQM Part II Permit, as noted in Paragraph N, above, constitutes a violation of Section 308 of The Clean Streams Law, 35 P.S. § 691.308. Section 308 states:

> "All plans, designs, and relevant data for the erection and construction of treatment works by any person or municipality for the treatment of industrial wastes shall be submitted to the department for its approval before the works are constructed or erected. Any such construction or erection which has not been approved by the department by written permit, or any treatment works not maintained or operated in accordance with the rules and regulations of the department, is hereby declared to be a nuisance."

S. The violation described in Paragraph N, above, constitutes unlawful conduct under Section 611 of The Clean Streams Law, 35 P.S. § 691.611; a statutory nuisance under Section 601 of The Clean Streams Law, 35 P.S. § 691.601; and subjects Hanover to civil penalty liability under Section 605 of The Clean Streams Law, 35 P.S. § 691.605.

ORDER

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After full and complete negotiation of all matters set forth in this COA and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Hanover as follows:

1. **Authority.**

    a. This COA is an Order of the Department authorized and issued pursuant to Section 5 of the Clean Streams Law, 35 P.S. § 691.5; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

    b. This COA is a modification that supersedes and replaces the original 2013 COA and 2014 COA Amendment entered into between the Department and Hanover. Additionally, this COA incorporates all Findings, Corrective Actions, and Stipulated Civil Penalties from the original 2013 COA and 2014 COA Amendment, adjusts the corrective action schedule included in the 2014 COA Amendment to meet the schedule in Hanover's current NPDES Permit, and also includes a civil penalty assessment for violations of the Clean Streams Law.

2. **Findings.**

    a. Hanover agrees that the findings in Paragraphs A through Q are true and correct, and in any matter or proceeding involving Hanover and the Department, Hanover shall not challenge the accuracy or validity of these findings.

    b. The parties do not authorize any other persons to use the findings in this COA in any matter or proceeding.

3. **Corrective Action.**

    a. Hanover shall submit, for the Department's review, quarterly construction or implementation progress reports until the termination of this COA. The first quarterly report shall be submitted on or before January 5, 2017.

    b. On or before October 1, 2017, Hanover shall issue certification of substantial completion (Plant fully operational) for construction of the Plant upgrades.

    c. On or before September 30, 2018, Hanover shall complete the one-year shakedown period, attain compliance with NPDES Permit effluent limitations, and begin operations of the upgraded Plant in the normal course of production.

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d. If the Department requires additional factual or technical information to review and approve any submittal necessary to comply with this COA, Hanover shall submit the requested information within thirty (30) calendar days of the date of the Department's request for such information; however, upon written request from Hanover, the Department may allow an extension of time for such a submittal.

e. Within fifteen (15) days of completing each corrective action identified above, Hanover shall submit written verification to the Department of the date the action was completed.

4. **Civil Penalty Settlement.** Within thirty (30) days of the date of this COA, Hanover shall pay a civil penalty of $6,200.00. This payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs N - S, above. The payment shall be made by corporate check or the like, made payable to the "Commonwealth of Pennsylvania" with a notation of "Clean Water Fund" on the memo line and sent c/o Erick M. Ammon, Environmental Compliance Specialist, DEP Water Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

5. **Stipulated Civil Penalties.**

a. In the event Hanover fails to comply in a timely manner with any term or provisions of this COA, Hanover shall be in violation of this COA and, in addition to other applicable remedies, shall pay a civil penalty in the amount determined under the following schedule:

i. For any violation of Paragraph 3, $100.00 per day for each violation, and $200.00 per day for each violation extending beyond the first 30 days.

ii. For any violation of its NPDES effluent limits, Hanover shall pay a stipulated penalty as outlined in Exhibit 1, which is incorporated by reference into this COA.

b. Stipulated civil penalty payments shall be payable monthly on or before the fifteenth day of each succeeding month, and shall be forwarded as described in Paragraph 4 (Civil Penalties) above.

c. Any payment under this Paragraph 5 shall neither waive Hanover's duty to meet its obligations under this COA nor preclude the Department from commencing an action to compel Hanover's compliance with the terms and conditions of this

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COA. The payment resolves only Hanover's liability for civil penalties arising from the violations of this COA for which the payment is made.

6. **Additional Remedies.**

a. In the event Hanover fails to comply with any provision of this COA, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this COA.

b. The remedies provided by this Paragraph 6 and Paragraph 5 (Stipulated Civil Penalties) are cumulative, and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated penalty is paid.

7. **Reservation of Rights.** The Department reserves the right to require additional measures to achieve compliance with applicable law. Hanover reserves the right to challenge any action which the Department may take to require those measures.

8. **Liability of Operator.** Hanover shall be liable for any violations of the COA, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors. Except as provided in Paragraph 9(c), Hanover also shall be liable for any violation of this COA caused by, contributed to, or allowed by its successors and assigns.

9. **Transfer of Facility.**

a. The duties and obligations under this COA shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the Facility, or any part thereof.

b. If Hanover intends to transfer any legal or equitable interest in the Facility which is affected by this COA, Hanover shall serve a copy of this COA upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the Southcentral Regional Office of the Department of such intent.

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c. The Department in its sole discretion may agree to modify or terminate Hanover's duties and obligations under this COA upon transfer of the Facility. Hanover waives any right that it may have to challenge the Department's decision in this regard.

10. **Correspondence with Department.** All correspondence with the Department concerning this COA shall be addressed to:

Erick M. Ammon
Environmental Protection Compliance Specialist
Clean Water Program
PADEP Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110
Ph: 717.705.4775
Fax: 717.705.4760

11. **Correspondence with Hanover.** All correspondence with Hanover concerning this COA shall be addressed to:

Mr. David K. Still
VP of Operations
Hanover Foods Corporation
P.O. Box 334
Hanover, PA 17330-0334
Ph: 717.632.6000
Fax: 717.632.7877

Hanover shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this COA, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. **Force Majeure.**

a. In the event that Hanover is prevented from complying in a timely manner with any time limit imposed in this COA solely because of a strike, fire, flood, act of God, or other circumstance beyond Hanover's control and which Hanover, by the exercise of all reasonable diligence, is unable to prevent, then Hanover may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this COA shall not constitute circumstances beyond Hanover's control. Hanover's economic inability to comply with any of the obligations of this COA shall not be grounds for any extension of time.

b. Hanover shall only be entitled to the benefits of this Paragraph 12 if it notifies the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by Hanover to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. Hanover's failure to comply with the requirements of this Paragraph 12 specifically and in a timely fashion shall render this Paragraph 12 null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by Hanover and other information available to the Department. In any subsequent litigation, the Hanover shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

13. **Severability.** The paragraphs of this COA shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

14. **Entire Agreement.** This COA shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

15. **Attorney Fees.** The parties shall bear their respective attorney fees, expenses and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this COA.

16. **Modifications.** No changes, additions, modifications, or amendments of this COA shall be effective unless they are set out in writing and signed by the parties hereto.

17. **Titles.** A title used at the beginning of any paragraph of this COA may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

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18. **Decisions Under Consent Order**. Any decision which the Department makes under the provisions of this COA, including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which Hanover may have to the decision will be preserved until the Department enforces this COA.

19. **Termination**. Paragraph 5 of this COA shall terminate when Hanover has demonstrated six consecutive months of compliance with its NPDES effluent limits after Hanover has completed, to the Department's satisfaction, the action required in Paragraphs 3 and 4, and paid any stipulated penalties due under Paragraph 5.

20. **Execution of Agreement.** This COA may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Facsimile signatures shall be valid and effective.

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IN WITNESS WHEREOF, the parties hereto have caused this COA to be executed by their duly authorized representatives. The undersigned representatives of Hanover certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this COA on behalf of Hanover; that Hanover consents to the entry of this COA as a final ORDER of the Department; and that Hanover hereby knowingly waives its right to appeal this COA and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Hanover's attorney certifies only that the COA has been signed after consulting with counsel.

FOR HANOVER FOODS CORPORATION:

12/22/16

Name: Jeffrey A. Warehime Date:
Title: CEO

FOR THE COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF ENVIRONMENTAL PROTECTION:

1/2/17

Maria D. Bebenek, P.E. Date:
Program Manager,
Clean Water Program

12/22/16

Name: DAVID K. STILL Date:
Title: VP CANNING OPERATIONS

1/3/17

Janna Williams Date:
Assistant Counsel

12/29/16

Attorney for Hanover Foods Corp. Date:

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Hanover Foods **Exhibit Number 1**
NPDES Permit No. PA0044741

Stipulated penalties for D.O., pH, TRC, TSS, CBOD5, Oil & Grease, Ammonia-Nitrogen and Fecal Coliform:

Percent over applicable permit limits or under applicable minimum.	Penalty from execution of COA through September 30, 2018
Monthly Average/Geometric Average Violations	**Assessed Monthly**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00
Instantaneous Maximum Violations(*)	**Assessed Daily**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00
Daily Maximum	**Assessed Daily**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00

Percent over applicable permit limits or under applicable minimum.	Penalty from October 1, 2018 through termination of COA
Monthly Average/Geometric Average Violations	**Assessed Monthly**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00
Instantaneous Maximum Violations(*)	**Assessed Daily**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00
Daily Maximum	**Assessed Daily**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00

(*) – Instantaneous Maximum Violations are determined from Department inspection results.

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Hanover Foods **Exhibit Number 2**
NPDES Permit No. PA0044741

August 20, 2013 Consent Order and Agreement

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Hanover Foods Corporation	:	The Clean Streams Law
P.O. Box 334	:	NPDES Permit No. PA 0044741
Hanover, PA 17331-0334	:	Penn Township, York County

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement ("COA") is entered into this 20th day of August, 2013, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Hanover Foods Corporation ("Hanover").

FINDINGS

The Department has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Pennsylvania Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 et seq. ("the Clean Streams Law"); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. § 510-17 ("Administrative Code"); and the rules and regulations promulgated there under, and with the delegated authority to administer a permit program, the National Pollutant Discharge Elimination System ("NPDES"), under Section 402 of the Federal Clean Water Act, 33 U.S.C. § 1342.

B. Hanover is a Pennsylvania corporation and maintains a business address of P.O. Box 334, Hanover, Pennsylvania 17331-0334.

C. Hanover owns and operates a food processing facility located in Penn Township, York County. Industrial wastewater generated from the food processing facility is treated at an on-site wastewater treatment plant ("Plant"). The Plant discharges treated wastewater to Oil Creek, a water of the Commonwealth, which is classified as a Warm Water Fishery under the Department's regulations at 25 Pa. Code § 93.9o. The discharge from the Plant constitutes Industrial Waste under Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307.

D. The discharge of industrial waste from the Plant through Outfall 001 and into Oil Creek, a water of the Commonwealth, is authorized under the terms and conditions of NPDES Permit No. PA 0044741, issued March 15, 2000, amended June 6, 2004, effective through April 1, 2005. The permit has been administratively extended.

E. Hanover is required by its NPDES permit, Section 92a.1(b) of the Department's rules and regulations, 25 Pa. Code § 92a.1(b), and Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307, to comply fully with the effluent limits set forth in its NPDES permit.

F. At times between June 2011 and June 2013, Hanover discharged wastewater contrary to the terms and conditions set forth in its NPDES permit. The violations are fully listed in Exhibit 1, which is attached hereto and incorporated herein by reference.

G. On March 23, 2011, the Department conducted an inspection of the Plant. During the inspection, a discharge of wastewater from the waste food storage pad into an unnamed tributary of Oil Creek was identified. The wastewater had been impacted by exposure to stockpiled vegetables located on the waste food storage pad.

H. On June 21 2011, the Department issued a Notice of Violation ("NOV") to Hanover for violations found during the inspection on March 23, 2011. Hanover has conveyed to the Department that it received the June 21, 2011 NOV on June 28, 2011.

I. On April 5, 2011, the Department conducted an inspection of the Plant. The inspection report documented a previously-unidentified and unpermitted heated water discharge into an unnamed tributary to Oil Creek from a pipe adjacent to a decommissioned outfall.

J. On April 5, 2011, the Department issued a NOV to Hanover for the heated water discharge found during the April 5, 2011 inspection. Hanover has conveyed to the Department that it received the April 5, 2011 NOV on May 2, 2011.

K. On June 29, 2011, the Department received a response to the NOV issued on April 5, 2011. The letter stated that, in 2004, Hanover had disconnected an overflow pipe from the cooling water pump station to the decommissioned outfall and had installed a plug in the pipe where heated water was discharging. The letter also stated that the end wall and pipe were removed. Hanover believes that the warm water discharge consisted of groundwater that had been heated by adjacent underground pump station structure.

L. On December 19, 2012, the Department issued a NOV to Hanover. The NOV identified effluent violations reported on monthly discharge monitoring reports sent to the Department for the months June 2012 to October 2012. In the NOV, the Department asked for a meeting with Hanover to discuss violations.

M. On January 22, 2013, a meeting was held at Hanover to discuss proposed treatment plant upgrades, permit violations, and a proposed COA.

N. The discharge of industrial waste contrary to NPDES Permit No. PA 0044741, as described in paragraphs F through L, above, are violations of Section 92a.1(b) of the Department's rules and regulations, 25 Pa. Code § 92a.1(b), and Sections 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307.

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O. The violations described in paragraph N, above, constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611; a statutory nuisance under Section 601 of the Clean Streams Law, 35 P.S. § 691.601; and subject Hanover to civil penalty liability under Section 605 of the Clean Streams Law, 35 P.S. § 691.605.

ORDER

After full and complete negotiation of all matters set forth in this COA and upon mutual exchange of covenants contained herein, the parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by Hanover as follows:

1. **Authority.** This COA is an Order of the Department authorized and issued pursuant to Section 5 of the Clean Streams Law, 35 P.S. § 691.5; and Section 1917-A of the Administrative Code, 71 P.S. § 510.17.

2. **Findings.**

   a. Hanover agrees that the findings in paragraphs A through O are true and correct and, in any matter or proceeding involving Hanover and the Department, Hanover shall not challenge the accuracy or validity of these findings.

   b. The parties do not authorize any other persons to use the findings in the COA in any matter or proceeding.

3. **Corrective Action.**

   a. On or before October 1, 2013, Hanover shall submit to the Department an administratively complete Water Quality Management Part II Permit ("Part II Permit") application regarding upgrades to the Plant to improve its ability to achieve currently-anticipated future legal requirements.

   b. On or before June 15, 2014, Hanover shall award contract for wastewater plant construction.

   c. On or before November 1, 2015, Hanover shall substantially complete construction of the upgrades.

   d. On or before June 1, 2016, Hanover shall complete shakedown thereof and begin operations of the upgraded Plant in the normal course of production.

   e. If the Department requires additional factual or technical information to review and approve any submittal necessary to comply with this COA, Hanover shall submit the requested information within thirty (30) calendar days of the date of the Department's request for such information; however, upon written request from Hanover, the Department may allow an extension for such a submittal.

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f. Within 15 days of completing each corrective action identified above, Hanover shall submit written verification to the Department of the date the action was completed.

4. **Civil Penalty Settlement.** Upon signing this COA, Hanover shall pay a civil penalty of $20,000; this payment is in settlement of the Department's claim for civil penalties for the violations set forth in paragraphs N and O, herein, covering the period from June 2011 through the date this COA is executed. The payment shall be made by corporate check or the like, made payable to "Commonwealth of Pennsylvania, Clean Water Fund," and sent to Mr. Shawn Arbaugh, Department of Environmental Protection, Clean Water Program, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

5. **Stipulated Civil Penalties.**

   a. In the event Hanover fails to comply in a timely manner with the provisions of this COA, Hanover shall be in violation of this COA and, in addition to other applicable remedies, shall pay a civil penalty in the amount determined under the following schedule:

      (1) For any violation of paragraphs 3.a through 3.e of this COA, $100 per day for the first 30 days of each violation, and $200 per day for each violation extending beyond the first 30 days.

      (2) For any violation of the effluent limits set forth in its NPDES Permit, Hanover shall pay a stipulated penalty as outlined in Exhibit Number 2.

   b. Stipulated civil penalty payments for any violation of paragraph 3.a through 3.e herein shall be payable monthly on or before the 15th day of each succeeding month, and shall be forwarded as described in paragraph 4 above. Stipulated civil penalties for the violation of the NPDES effluent limits shall be payable monthly on or before the 28th day of each succeeding month in which the effluent violation occurred. The penalties shall be due automatically and without notice.

   c. Any payment under this paragraph shall neither waive Hanover's duty to meet its obligations under this COA, nor preclude the Department from commencing an action to compel Hanover's compliance with the terms and conditions of this COA. The payment resolves Hanover's liability only for civil penalties arising from the violation of this COA for which the payment is made.

6. **Additional Remedies.**

   a. In the event Hanover fails to comply with any provision of this COA, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this COA.

   b. The remedies provided by this paragraph and paragraph 5 are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a

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stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated civil penalty is paid.

c. No provision of this COA shall preclude the Department from pursuing civil penalties for past violations of your NPDES permit, or any future reported or documented violations, except those violations covered by paragraph 5 of this COA.

7. **Reservation of Rights.** The Department reserves the right to require additional measures to achieve compliance with applicable laws. Hanover reserves the right to challenge any action which the Department may take to require those measures.

8. **Liability of Operator.** Hanover shall be liable for any violations of the COA, including those caused by, contributed to, or allowed by its officers, agents, employees or contractors. Hanover also shall be liable for any violation of this COA caused by, contributed to, or allowed by its successors and assigns.

9. **Transfer of Site.**

a. The duties and obligations under this COA shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in the Plant or any part thereof.

b. If Hanover intends to transfer any legal or equitable interest in the Plant that is affected by this COA, Hanover shall serve a copy of this COA upon the prospective transferee of the legal and equitable interest at least 30 days prior to the completed transfer and shall simultaneously inform the Department's Southcentral Regional Office of such intent.

c. The Department in its sole discretion may agree to modify or terminate Hanover's duties and obligations under this COA upon transfer of the Plant. Hanover waives any right that it may have to challenge the Department's decision in this regard.

10. **Correspondence with Department.** All correspondence with the Department concerning this COA shall be addressed to:

Mr. Shawn Arbaugh
DEP – Clean Water Program
Southcentral Regional Office
909 Elmerton Avenue
Harrisburg, PA 17110-8200

Phone: 717.705.4772
Fax: 717.705.4760

All civil penalty payments required under this document shall be made by corporate check or the like, made payable to "The Commonwealth of Pennsylvania, Clean Water Fund", and forwarded as described above.

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11. **Correspondence with Hanover.** All correspondence with Hanover concerning this COA shall be addressed to:

Mr. David K. Still
Hanover Foods Corporation
P.O. Box 334
Hanover, PA 17331-0334

Phone: (717)-632-6000
Fax: (717)-632-7877

Hanover shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this COA, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. **Force Majeure.**

a. In the event that Hanover is prevented from complying in a timely manner with any time limit imposed in this Consent Order and Agreement solely because of a strike, fire, flood, act of God, or other circumstance beyond Hanover's control and which Hanover, by the exercise of all reasonable diligence, is unable to prevent, then Hanover may petition the Department for an extension of time. An increase in the cost of performing the obligations set forth in this Consent Order and Agreement shall not constitute circumstances beyond Hanover's control. Hanover's economic inability to comply with any of the obligations of this Consent Order and Agreement shall not be grounds for any extension of time.

b. Hanover shall only be entitled to the benefits of this paragraph if it notifies the Department within five (5) working days by telephone and within ten (10) working days in writing of the date it becomes aware or reasonably should have become aware of the event impeding performance. The written submission shall include all necessary documentation, as well as a notarized affidavit from an authorized individual specifying the reasons for the delay, the expected duration of the delay, and the efforts which have been made and are being made by Hanover to mitigate the effects of the event and to minimize the length of the delay. The initial written submission may be supplemented within ten working days of its submission. Hanover's failure to comply with the requirements of this paragraph specifically and in a timely fashion shall render this paragraph null and of no effect as to the particular incident involved.

c. The Department will decide whether to grant all or part of the extension requested on the basis of all documentation submitted by Hanover and other information available to the Department. In any subsequent litigation, Hanover shall have the burden of proving that the Department's refusal to grant the requested extension was an abuse of discretion based upon the information then available to it.

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13. **Severability.** The paragraphs of this COA shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

14. **Entire Agreement.** This COA shall constitute the entire integrated agreement of the parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

15. **Attorney Fees.** The parties shall bear their respective attorney fees, expenses, and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this COA.

16. **Modifications.** No changes, additions, modifications, or amendments of this COA shall be effective unless they are set out in writing and signed by the parties hereto.

17. **Titles.** A title used at the beginning of any paragraph of this COA is provided solely for the purpose of identification and shall not be used to interpret that paragraph.

18. **Decisions Under Consent Order.** Any decision which the Department makes under the provisions of this COA, including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which Hanover may have to the decision will be preserved until the Department enforces this COA.

19. **Termination.** Paragraph 5.a of this COA shall terminate when Hanover has demonstrated six consecutive months of compliance with its NPDES effluent limits after Hanover has completed to the Department's satisfaction the actions required in paragraphs 3 and 4, and paid any stipulated penalties due under paragraph 5.

IN WITNESS WHEREOF, the parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of Hanover certify under penalty of law, as provided by 18 Pa. C.S. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of Hanover; that Hanover consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that Hanover hereby knowingly waives its right to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S. § 103(a) and Chapters 5A and 7A; or any other provisions of law. Signature by Hanover's attorney certifies only that this COA has been signed after consulting with counsel.

[SIGNATURE PAGE(S) FOLLOW]

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FOR HANOVER FOODS CORPORATION:

David K. Still 8/13/13

Name: David K. Still Date
Plant Manager

Patrick H. Zaeffel 8/16/13

Name: Patrick H. Zaeffel Date
Counsel for Hanover Foods Corporation

FOR THE COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION:

Maria J. Bebenek 8/20/13

Maria Bebenek, P.E. Date
Program Manager
Clean Water Program

Martin Sokolow

Martin Sokolow Date
Regional Counsel

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Exhibit 1

MONTHLY AVERAGE VIOLATIONS

Month & Parameter	Permit Limit	DMR Reported
6-12;tss mo ave	30	35
11-12;tss mo ave	30	48
11-12;cbod mo ave	20	22.7
9-12;nh3n mo ave	1.3	1.52
10-12;nh3n mo ave	1.3	1.8
9-11;nh3n mo ave	1.3	2.99
10-11;nh3n mo ave	1.3	1.66
6-11; tss mo ave	30	35
7-11; tss mo ave	30	35
3-13; tss mo ave	30	35
4-13; tss mo ave	30	41
6-13; nh3n mo ave	1.3	2.28

DAILY MAXIMUM VIOLATIONS

Date & Parameter	Permit Limit	DMR Reported
12-11 cbod day max	30	132
7-12;ph	9	9.1
8-12;do	5	4.6
9-12;do	5	4.4
10-12;do	5	3.3
11-12;do	5	1.4
11-12;tss	60	108
11-12;cbod	30	52.1
10-12;cbod	15	18.4
9-12;nh3n	2.6	3.06
9-11;nh3n	2.6	5.6
9-11;nh3n	2.6	2.92
9-11;nh3n	2.6	4.21
9-11;nh3n	2.6	3.59
9-11;nh3n	2.6	2.92
9-11;nh3n	2.6	2.67
10-11;nh3n	2.6	3.45
10-11;nh3n	2.6	3.82
10-12;do	5	4.7
10-12;nh3n	2.6	4.6
10-12;nh3n	2.6	2.74
10-12;nh3n	2.6	3.04
11-12;do	5	4.4
11-12;do	5	1.7
11-12;do	5	1.9
11-12;do	5	2.5
11-12;do	5	4
11-12;do	5	4.5
11-12;do	5	3.6
11-12;tss	60	76

11-12;cbod	30	30.4
6-11; cbod	15	17.8
6-11; pH	9	9.2
6-13; cbod	15	18.1
6-13; nh3n	2.6	3.52
6-13; nh3n	2.6	3.72
6-13; nh3n	2.6	2.93

Exhibit Number 2

Hanover Foods
NPDES Permit No. PA0044741

Stipulated penalties for Dissolved Oxygen, pH, Total Suspended Solids, CBOD, Total Residual Chlorine, and Ammonia-nitrogen:

Percent over applicable permit limits or under applicable minimum	Penalty from execution of COA through completion of Paragraph 3.e
Monthly Average/Geometric Average Violations	**Assessed Monthly**
>0-25%	$ 200.00
>25.1-50 %	$ 225.00
>50.1-75 %	$ 250.00
>75.1-100 %	$ 275.00
>100.1 %	$ 300.00
Instantaneous Maximum Violations(*)	**Assessed Daily**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00
Daily Maximum	**Assessed Daily**
>0-25%	$ 100.00
>25.1-50 %	$ 125.00
>50.1-75 %	$ 150.00
>75.1-100 %	$ 175.00
>100.1 %	$ 200.00

Percent over applicable permit limits or under applicable minimum	Penalty from completion of Paragraph 3.e through termination of COA
Monthly Average/Geometric Average Violations	**Assessed Monthly**
>0-25%	$ 400.00
>25.1-50 %	$ 450.00
>50.1-75 %	$ 500.00
>75.1-100 %	$ 550.00
>100.1 %	$ 600.00

Instantaneous Maximum Violations(*)	Assessed Daily
>0-25%	$ 200.00
>25.1-50 %	$ 250.00
>50.1-75 %	$ 300.00
>75.1-100 %	$ 350.00
>100.1 %	$ 400.00

Daily Maximum	Assessed Daily
>0-25%	$ 200.00
>25.1-50 %	$ 250.00
>50.1-75 %	$ 300.00
>75.1-100 %	$ 350.00
>100.1 %	$ 400.00

(*) – Instantaneous Maximum Violations are determined from Department inspection results.

Hanover Foods **Exhibit Number 3**
NPDES Permit No. PA0044741

October 16, 2014 Consent Order and Agreement Amendment

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the matter of:

Hanover Foods Corporation	:	The Clean Streams Law
P.O. Box 334	:	NPDES Permit No. PA 0044741
Hanover, PA 17331-0334	:	Penn Township, York County

FIRST AMENDMENT TO CONSENT ORDER AND AGREEMENT

This First Amendment to Consent Order and Agreement is entered into this 16th day of October, 2014, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department") and Hanover Foods Corporation ("Hanover").

FINDINGS

1. On August 20, 2013, the Department and Hanover entered into a consent order and agreement ("COA").

2. Hanover timely completed the corrective action under Paragraphs 3.a, of the August 20, 2013 COA.

3. In correspondence dated June 20, 2014, Hanover requested an extension to award contracts for wastewater plant construction and completing construction of the upgrades.

4. The Department agrees with the extension request dated June 20, 2014.

5. Paragraph 3 of the COA is amended as follows:

   a. On or before September 30, 2014, Hanover shall award contract for wastewater plant construction.

   b. On or before June 15, 2015, Hanover shall begin construction of the upgrades to the wastewater plant.

   c. On or before December 31, 2016, Hanover shall substantially complete construction of the upgrades.

   d. On or before June 1, 2017, Hanover shall complete shakedown thereof and begin operations of the upgraded Plant in the normal course of production.

   e. If the Department requires additional factual or technical information to review and approve any submittal necessary to comply with this COA, Hanover shall submit the

requested information within thirty (30) calendar days of the date of the Department's request for such information; however, upon written request from Hanover, the Department may allow an extension for such a submittal.

f. Within 15 days of completing each corrective action identified above, Hanover shall submit written verification to the Department of the date the action was completed.

6. There are no other changes to the COA, which remains in full force and effect.

FOR HANOVER FOODS CORPORATION:

9/24/14

Name: David K. Still — Date
Plant Manager

10-3-14

Name: Patrick H. Zaepfel — Date
Counsel for Hanover Foods Corporation

FOR THE COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION:

10/16/14

Maria Bebenek, P.E. — Date
Program Manager
Clean Water Program

Martin Sokolow — Date
Regional Counsel

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Hanover Foods **Exhibit Number 4**
NPDES Permit No. PA0044741

Part C.I.A of the Hanover Foods IWTP NPDES Permit

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PART C

I. CHESAPEAKE BAY SCHEDULE

A . The permittee shall be in compliance with effluent limitations for Nitrogen and Phosphorus contained in Part A I.G.2, or terminate this discharge, in accordance with the following schedule:

Activity	Due Date
1. Submit Update to Act 537 Sewage Facilities Plan	Not Applicable
2. Submit WQM Part II Permit Application	Not Applicable
3. Award Contract for Construction or Begin Implementation	10/1/2015
4. Construction or Implementation Progress Report(s)	Quarterly
5. Issue Certification of Substantial Completion (Plant Fully Operational)	10/1/2017
6. Compliance with effluent limitations	9/30/2018

B. No later than 14 calendar days following the date identified in the above schedule of compliance, the permittee shall submit to the Department a written notice of compliance or non-compliance with the specific schedule requirement(s) to:

Department of Environmental Protection
Southcentral Regional Office
Water Management Program
Attn: Compliance Specialist
909 Elmerton Avenue
Harrisburg, PA 17110-8200

C. Each notice of non-compliance, at a minimum, shall include the following information:

1. A description of the noncompliance.

2. A description of any actions taken or proposed by the permittee to comply with the elapsed schedule requirement.

3. A description of any factors which tend to explain or mitigate the noncompliance.

4. An estimate of the date that compliance with the elapsed schedule requirement will be achieved and an assessment of the probability that the next scheduled requirement will be met on time.

5. A revised schedule of compliance for Department approval.

D. The permittee should contact the compliance specialist indicated in the event of anticipated non-compliance with any of a compliance schedule activities listed, seven (7) days prior to the due date of the activity.

II. CHESAPEAKE BAY NUTRIENT REQUIREMENTS

A. The Annual Net Total Nitrogen (TN) and Annual Net Total Phosphorus (TP) Mass Load effluent limitations ("Cap Loads") in Part A of this permit are required in order to meet the downstream water quality standards of the State of Maryland, as required by 25 Pa. Code Chapter 92a, the federal Clean Water Act, and implementing regulations.

McNees
Wallace & Nurick LLC

100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Scott A. Gould
Direct Dial: 717.237.5304
Direct Fax: 717.260.1699
sgould@mcneeslaw.com

December 29, 2016

VIA HAND DELIVERY

Janna Williams, Esq.
Assistant Regional Counsel
PA Department of Environmental Protection
909 Elmerton Avenue
Harrisburg, PA 17110

RE: Hanover Foods Corporation
Amended Consent Order and Agreement

Dear Janna:

Enclosed please find three (3) originals of the Consent Order and Agreement signed by Hanover Foods Corporation and by me as counsel, along with a check for $6,200.00 addressed to the Commonwealth of Pennsylvania Clean Water Fund as mandated in the COA. The payment is provided contingent upon PADEP executing to the COA in the form enclosed. Kindly have PADEP execute the original COAs and return one original to Stephanie Kleinfelter at HFC (address in the COA), with a copy to me. Thank you for your cooperation in this matter.

Sincerely,

McNEES WALLACE & NURICK LLC

By Scott A. Gould

SAG:kb
Enclosures
c: Stephanie Kleinfelter, Esq. (via email)

THIS CHECK IS VOID WITHOUT A BLUE & RED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT AN ANGLE TO VIEW

HANOVER®

Hanover Foods Corporation
PO Box 334
Hanover, PA 17331

PNC Bank, National Association
Central PA 60-1273/313

December 22, 2016

CHECK NO. 17620

$6,200.00

PAY EXACTLY *Six Thousand, Two Hundred Dollars and NO Cents*

PAY TO THE ORDER OF
COMMONWEALTH OF PA
DEP WATER MANAGEMENT PROGRAM
909 ELMERTON AVE
HARRISBURG PA 17110-8200

CLEAN WATER FUND

Hanover Foods Corporation

AUTHORIZED SIGNATURE

Clean Water Program
Compliance Check Distribution Form

Name: Hanover Foods Corporation

County: York Co Municipality: Penn Twp.

Permit No. PA0044741 Efacts Id: 349766

Action: COA w/ Civil Penalty

Date Rcv'd: 12-29-16 Amount: $6,200.00

GL	COST CENTER	FUND	SHORT DESCRIPTION	AMOUNT
4425012	3544360000	6007200001	Fines & Penalties Clean Water Fund	$ 6,200.00
			Total Check Amount	$ 6,200.00

From: Erick M Amman (Compliance Specialist)

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