



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

September 11, 2017

Mr. Dominick Mack  
Director of Operations  
Bright Farms  
LMT Greenhouse, LLC  
754 Stony Hill Road  
Yardley, PA 19067

Re: Clean Water/Operations/  
Industrial Waste  
LMT Greenhouse, LLC  
Lower Makefield Township  
Bucks County

Dear Mr. Mack:

We are enclosing a copy of our Consent Assessment of Civil Penalty (CACP) dated August 31, 2017, resolving Clean Streams Law violations resulting from an unpermitted discharge of hydroponic wastewater outside of the greenhouse building onto the ground, a conduit to waters of the Commonwealth, as observed in a Department of Environmental Protection (Department) investigation conducted on November 8, 2016.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Flannery".

Steve Flannery  
Compliance Specialist  
Clean Water

Enclosure

cc: Mr. Magge  
Re 30 (GJE17CLW)254

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of:

LMT Greenhouse, LLC : CLW/IW  
Lower Makefield Township : Violation of Clean Streams Law  
Bucks County :  
:

CONSENT ASSESSMENT OF CIVIL PENALTY

This Consent Assessment of Civil Penalty ("CACP") is entered into this 31<sup>st</sup> day of August 2017, by and between the Commonwealth of Pennsylvania, Department of Environmental Protection ("Department"), and LMT Greenhouse, LLC ("LMT").

The Department has found and determined the following:

A. The Department is the agency with the authority to administer and enforce the Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. § 691.1 et seq. ("Clean Streams Law"), and the Rules and Regulations promulgated thereunder.

B. LMT is a foreign business corporation with local business offices at 754 Stony Hill Road, Yardley, PA 19067 ("Site").

C. LMT owns and operates a hydroponic vegetable growing operation at the Site.

D. On November 8, 2016, the Department conducted an inspection at the Site which revealed that as part of the hydroponic operation, LMT utilizes seven 48,000 tanks which are filled with well water and to which fertilizers are added to provide nutrients to the growing plants. Tank water is routinely sampled and when sample results show total iron concentrations in excess of 5 mg/l several inches of water is drawn off the tanks and replaced with fresh well water. The Department observed during the inspection that the waste water (by definition, an industrial waste) was pumped to the ground surface outside of the building where it flowed into drainage swales and towards an on-site pond, waters of the Commonwealth. The discharge observed was not reported to the Department by LMT. Subsequent to the Department's inspection, LMT received authorization from the Morrisville Municipal Authority to discharge process waste water to the Authority.

E. Section 301 of the Clean Streams Law, 35 P.S. § 691.301, provides that "[n]o person or municipality shall place or permit to be placed or discharged or permit to flow, or continue to discharge

or permit to flow, into any waters of the Commonwealth any industrial wastes, except as hereinafter provided in this act.”

F. Section 307(a) of the Clean Streams Law, 35 P.S. § 691.307(a), in part, provides that “[n]o person or municipality shall discharge or permit the discharge of industrial wastes in any manner, directly or indirectly, into any waters of the Commonwealth unless such discharge is authorized by the rules and regulations of the Department or such person or municipality has first obtained a permit from the “[D]epartment.”

G. The discharge of industrial waste into waters of the Commonwealth by LMT, as described in paragraph D herein, was not authorized by permit or regulation and thereby constitutes a violation of §§ 301 and 307 of the Clean Streams Law, 35 P.S. §§ 691.301 and 691.307.

H. Section 91.33(a) of the Department’s Rules and Regulations, 25 Pa. Code § 91.33(a), states that “[i]f, because of an accident or other activity or incident, a toxic substance or another substance which would endanger downstream users of the waters of this Commonwealth, would otherwise result in pollution or create a danger of pollution of the waters, or would damage property, is discharged into these waters—including sewers, drains, ditches or other channels of conveyance into the waters—or is placed so that it might discharge, flow, be washed or fall into them, it is the responsibility of the person at the time in charge of the substance or owning or in possession of the premises, facility, vehicle or vessel from or on which the substance is discharged or placed to immediately notify the Department by telephone of the location and nature of the danger and, if reasonably possible to do so, to notify known downstream users of the waters.”

I. LMT’s failure to immediately report the discharges of industrial waste as described in paragraph D is a violation of 25 Pa. Code Section 91.33(a).

J. Section 91.34(a) of the Department’s Rules and Regulations, 25 Pa. Code § 91.34(a), states: “Persons engaged in an activity which includes the impoundment, production, processing, transportation, storage, use, application or disposal of pollutants shall take necessary measures to prevent the substances from directly or indirectly reaching waters of this Commonwealth, through accident, carelessness, maliciousness, hazards of weather or from another cause.”

K. LMT’s failure to take appropriate measures to prevent the release of a polluting substance from being released to waters of the Commonwealth is a violation of 25 Pa. Code Section 91.34(a).

L. The violations described in paragraphs G, I, and K constitute unlawful conduct under Section 611 of the Clean Streams Law, 35 P.S. § 691.611; and subject LMT to a claim for civil penalties under Section 605 of the Clean Streams Law, 35 P.S. § 691.605.

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

1. **Assessment.** In resolution of the Department's claim for civil penalties, which the Department is authorized to pursue under Section 605 of the Clean Streams Law, 35 P.S. § 691.605, the Department hereby, assesses a civil penalty of **FOUR THOUSAND FORTY SEVEN DOLLARS (\$4,047)**, which LMT hereby agrees to pay.

2. **Civil Penalty Settlement.** Upon signing this CACP, LMT shall pay the civil penalty assessed in paragraph 1. The payment is in settlement of the Department's claim for civil penalties for the violations set forth in Paragraphs G, I, and K above, for the date set forth in Paragraph D, above. The payment of **\$4,047** shall be by corporate check or the like, made payable to "The Commonwealth of Pennsylvania, Clean Water Fund" and shall be sent to:

Mr. Stephen Piller  
Compliance Specialist  
PA Department of Environmental Protection  
Southeast Regional Office  
2 East Main Street  
Norristown, PA 19401

3. **Findings.**

(a) LMT agrees that the findings in Paragraphs A through F, H, and J are true and correct and, in any matter or proceeding involving LMT and the Department, LMT 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 CACP in any matter or proceeding.


4. **Reservation of Rights.** The Department reserves all other rights with respect to any matter addressed by this CACP, including the right to require abatement of any conditions resulting from the events described in the Findings. LMT reserves the right to challenge any action which the Department may take, but waives the right to challenge the content or validity of this CACP.

**IN WITNESS WHEREOF**, the parties have caused this CACP to be executed by their duly authorized representatives. The undersigned representatives of LMT certify, under penalty of law, as provided by 18 Pa.C.S. § 4904, that they are authorized to execute this CACP on behalf of LMT; that LMT consents to the entry of this CACP as an **ASSESSMENT** of the Department; that LMT hereby knowingly waives any right to a hearing under the statutes referenced in this CACP and that LMT knowingly waives his right to appeal this CACP, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa.C.S. § 103(a) and Chapters 5A and 7A; or any other provision of law.

**FOR LMT GREENHOUSE, LLC:**

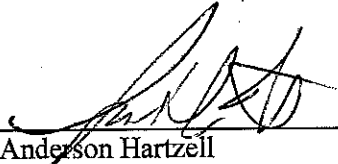
**FOR THE COMMONWEALTH OF  
PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION:**

  
\_\_\_\_\_  
Name: *PAUL LIGHTFOOT*

  
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Jenifer Fields, P.E.  
Regional Manager  
Clean Water

\_\_\_\_\_  
Title: *CEO*

\_\_\_\_\_  
Name:

  
\_\_\_\_\_  
Anderson Hartzell  
Regional Counsel  
Office of Chief Counsel

*8/31/17*

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Title:

Re 30