



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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Columbus, Ohio 43215

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MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

June 4, 2009

Mercer County
2IK00009*AD

CERTIFIED MAIL

Wenning Poultry Farm
James and Mary Wenning
1500 Union City Road
Ft. Recovery, Ohio 45846

Re: **Notice of Violation, Unauthorized CAFO Expansion**

Dear Mr. and Mrs. Wenning:

Wenning Poultry Farm was issued a final Permit-to-Install and a final Permit-to-Operate by the Ohio Department of Agriculture (ODA) on April 28, 2009. The permits allow Wenning Poultry to increase bird numbers from 600,000 laying hens to 1,241,308 laying hens. Additionally, a new pullet barn with a capacity of 125,000 pullets is to be built.

On December 10, 2007, this office received an application form for a National Pollutant Discharge Elimination System (NPDES) permit modification for Wenning Poultry. The form requested an increase in bird numbers from 600,000 laying hens to 1,000,000 laying hens.

Upon learning that the actual expansion at Wenning Poultry would put bird numbers at 1,241,308 laying hens, this office requested an updated NPDES permit modification form. The most recent request was made by e-mail on April 21, 2009. To date, an updated NPDES permit modification form for Wenning Poultry has not been received by this office.

We have recently been informed that Wenning Poultry is in the process of adding cages to a building and, upon installation, stocking the cages with birds. Although you submitted an NPDES permit modification form to Ohio EPA on December 10, 2007, the form was inaccurate and this office did not act on the application. Therefore, you are currently in direct violation of your NPDES permit by expanding your operation above the design capacity without notifying Ohio EPA in writing of the intended actions.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korteski, Director



Please be aware that you are in violation of the following condition of your NPDES permit.

Part II, A.

This NPDES permit applies to the storage, collection, treatment, handling, and disposal/land application of manure and management of storm water associated with industrial activity associated with Wenning Poultry Farm, which was designed to house a maximum of 600,000 layers. This operation shall not be expanded above the design capacity shown in this permit, or to encompass more land to be included in the production area, until Ohio EPA has been notified in writing of the intended actions. A modified NPDES permit reflecting the expansion will be required for significant changes (e.g., greater than 10 percent increase in animals confined).

In addition to violating Part II, A. of its NPDES permit, Wenning Poultry has also failed to provide Ohio EPA with monitoring data required by Part I, B. of its NPDES permit. The discharge of drinking water treatment waste water is to be sampled once per month in the months of May and November. The last set of data provided to Ohio EPA was for sampling conducted in November, 2007.

At this time we request the following:

1. Please submit an updated NPDES permit modification form which accounts for all increases in bird numbers. The 1,241,308 laying hens should be accounted for in addition to the 125,000 pullets to be housed at your facility. The modification form can be found at the following web address: <http://www.epa.state.oh.us/dsw/permits/npdesform.html>
2. Provide this office with a written report which describes expansion work which has already been undertaken at Wenning Poultry and which also provides an expected schedule for any remaining work. The report can be submitted to my attention at the following address:

Ohio EPA, Division of Surface Water
Attention: Jon Bernstein
P.O. Box 1049
Columbus, OH 43216-1049

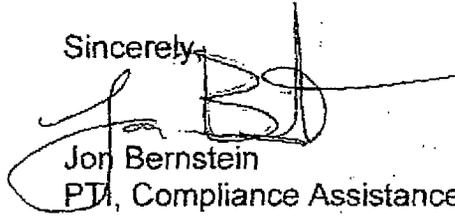
3. Provide this office with the results of any sampling conducted in May and November of 2008. Also, please be sure to provide this office with the results from the recent sampling which should have been conducted in May, 2009. Should you not have these sample results, please provide a written statement as to why you have not been collecting water quality samples in accordance with your NPDES permit.

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Please submit the requested information within **30 days** of receipt of this letter. You should also be aware that continued violations of your NPDES permit may result in enforcement action against your poultry operation. Also, please note that Ohio EPA plans to inspect Wenning Poultry Farm in the coming months in order to determine its compliance with NPDES permit number 2IK00009*AD.

Should you have any questions and/or concerns, please contact me at 614-728-2397 or via email at jon.bernstein@epa.state.oh.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Bernstein', with a large, stylized flourish extending to the right.

Jon Bernstein
PTA, Compliance Assistance & CAFO Unit
Division of Surface Water

cc: Kevin Elder, ODA-LEPP