



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

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

September 23, 2010

CERTIFIED MAIL

Mr. Russ Fox
Seneca Pork, Inc.
3323 County Road 36
Tiffin, Ohio 44883

Re: Notice of Violation – Manure Discharge to tributary of Rock Creek

Dear Mr. Fox,

Ohio EPA, Division of Surface Water is aware of a manure discharge from your swine operation which was discovered on July 26, 2010. Ohio Department of Natural Resources, Division of Wildlife (ODNR-DOW) officer Paul Kurfis reported a fish kill in a tributary of Rock Creek to the Ohio EPA Spill Hotline. Mr. Kurfis also noted that there appeared to be manure in the creek.

BACKGROUND

Ohio EPA, Division of Emergency and Remedial Response On-Scene Coordinator (OSC) Mike Gerber arrived in the area around 1:40 p.m. Prior to OSC Gerber's arrival, Wildlife Officers Jeff Collingwood and Matt Leibengood tracked the source of manure back to a wheat stubble field where you had applied swine manure.

A significant amount of manure had traveled downstream from the application area and collected in a pond on Marvin Gooding's property. The pond is located on the unnamed tributary of Rock Creek and discharges to the unnamed tributary. A large number of dead fish were observed downstream of the pond and the surface water in the creek was black with a strong manure odor. OSC Gerber documented violations of the water quality standards for ammonia and dissolved oxygen in the unnamed tributary.

The discharge was attributed to the land application of manure from Seneca Pork to a wheat stubble field. The manure application was stated to have occurred on July 23, 2010. A transfer hose leading from a manure lagoon at Seneca Pork to the land application east of the Gooding property was still in place on July 26, 2010. There were areas in the wheat stubble field that were saturated with manure and several pools of manure were observed. There was evidence of a discharge through an 8-inch field tile leading to the unnamed tributary of Rock Creek.

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

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Due to the unpermitted discharge of manure to waters of the State, you are in violation of the following:

Ohio Revised Code 6111.04

(A) Both of the following apply except as otherwise provided in division (A) or (F) of this section:

(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

(2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Due to the unpermitted discharge of manure from the Seneca Pork facility to waters of the State, we request that you obtain coverage under a Concentrated Animal Feeding Operation (CAFO) National Pollutant Discharge Elimination System (NPDES) permit or that you demonstrate that a CAFO NPDES permit is not required for your operation.

In order to apply for a CAFO NPDES permit, please submit the following:

- Form 1
- Form 2B
- Antidegradation Addendum
- Copy of Manure Management Plan (MMP)
- \$200 check made payable to "Treasurer, State of Ohio"

The above forms have been included with this letter. The completed forms, MMP, and check should be submitted to the following address:

Ohio Environmental Protection Agency
Division of Surface Water
Attn: Cathy Alexander
P.O. Box 1049
Columbus, OH 43216-1049

Please inform this office in writing if you wish to demonstrate that a CAFO NPDES permit is not required for your operation. Such a demonstration could consist of a report detailing enhanced conservation practices to be implemented by Seneca Pork in order to preclude discharges of manure to waters of the State.

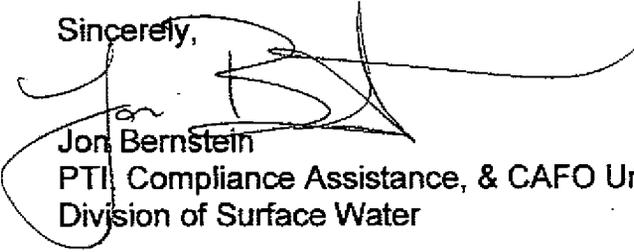
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Understand that you could be held liable for further impacts to waters of the State, which may include further degradation of habitat, fish kills, and possibly public health and nuisance complaints. Failure to mitigate potential releases could lead to enforcement action from this Agency.

Within **30 days** of receipt of this letter, please submit an application for a CAFO NPDES permit or demonstrate that a CAFO NPDES permit is not required for your operation.

Should you have any questions, comments, or concerns regarding this letter feel free to contact me at 614-728-2397 or at jon.bernstein@epa.state.oh.us.

Sincerely,



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

cc: Mike Gerber, Ohio EPA -DERR
Kevin Elder, ODA-LEPP
Rob Hamilton, ODNR-DSWR
Jeff Collingwood, ODNR-DOW