



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

March 23, 2011

CERTIFIED MAIL

John Fleck
Fleck Brothers Farms
3560 Harrison Road
St. Henry, Ohio 45883

Re: Notice of Violation, Manure Discharge to Chickasaw Creek

Dear Mr. Fleck,

Ohio EPA, Division of Surface Water is aware of a discharge of diesel fuel and manure from your dairy and swine operation which was discovered on February 15, 2011. Ohio Department of Natural Resources (ODNR) Wildlife Officer Ryan Garrison had discovered a fuel oil spill in a road ditch and traced the spill back to your dairy and swine facility on Harrison Road.

Officer Garrison and Ohio EPA Division of Emergency and Remedial Response (DERR) responder Dave Schilt inspected your property. Several areas of your facility were discovered where it appeared that manure was being directly conveyed to a tile which drains to Chickasaw Creek.

You indicated to Officer Garrison that a tile receiver conveying contaminated wastewater drains directly to a creek. This creek subsequently drains to Chickasaw Creek which drains to Grand Lake St. Marys. Several other areas receiving manure-contaminated runoff from the feedlot appeared to be draining into tiles and you indicated that these tiles drain into the receiver which discharges to the creek. Information has been provided to this office which states that you confine at least 200 dairy cattle at Fleck Brothers Farms.

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

OAC 3745-33-02 Ohio NPDES permit required

(A) No person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio NPDES permit in accordance with the requirements of this chapter. Any person who holds a federal NPDES permit issued under Section 402 (a) of the act is not required to obtain an Ohio NPDES permit until its expiration date. The director shall administer and enforce permits issued under Section

Mr. John Fleck

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Within **30 days** of receipt of this letter, please provide this Office with either:

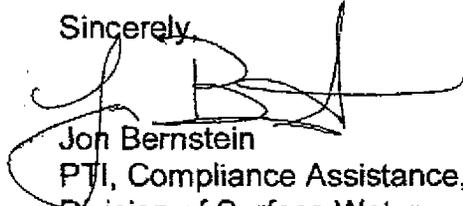
- 1) A letter outlining what steps you have taken or will take in order to eliminate the discharge of manure pollutants from the production area of Fleck Farms to waters of the State within 90 days; or
- 2) An application for a CAFO NPDES permit.

Please understand that both of the above options require you to eliminate discharges from the production area of your facility.

If there is any statement in this letter which you believe is in error, please advise me in writing within 14 days.

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: Dave Schilt, Ohio EPA -DERR
Kevin Elder, ODA-LEPP
Rob Hamilton, ODNR-DSWR
Matt Heckler, Mercer SWCD
Ryan Garrison, ODNR-DOW