



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

May 15, 2007

Logan County

**CERTIFIED MAIL**

John and Samuel Jackson  
Jackson Farms  
1048 State Route 235 N  
DeGraff, Ohio 43318

Dear Sirs:

Re: Notice of Violation  
Notification of CAFO NPDES Permit Duty to Apply

On April 4, 2007, Ohio EPA, Division of Surface Water was notified of a manure discharge into waters of the State as the result of land application of manure from your swine facility. Gail Rodabaugh with the Ohio Department of Agriculture, Livestock Environmental Permitting Program (ODA-LEPP) and Officer Scott Sharpe with the Ohio Department of Natural Resources, Division of Wildlife (ONDR-DOW) investigated the incident. The following letter details the findings and outlines corrective actions required by Ohio EPA.

**Background**

According to Mrs. Rodabaugh's investigation report (attached), manure was land applied on April 3, 2007 by applicator Nick Lewis. Approximately 9-10,000 gallons per acre was applied to 38 acres. The forecast was not recorded prior to the application event.

Officer Sharp was notified of a discharge on the evening of April 3. Mr. Lewis was contacted and inserted an inflatable tile plug into the tile outlet. The land application of manure caused migration of manure into a field tile that discharged to the unnamed tributary of Indian Creek along State Route 235. Officer Sharpe collected water quality samples of the unnamed tributary and manure discharge. Mrs. Rodabaugh responded on April 4<sup>th</sup> and collected water quality samples of the discharge. These samples were transferred to the Ohio EPA laboratory for analysis. The following table lists the sample results.

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

**Water Quality Sample Results**

<b>Date &amp; Collector</b>	<b>Location</b>	<b>BOD5</b>	<b>Total Solids</b>	<b>Ammonia</b>	<b>Nitrate+nitrite</b>	<b>Total Phosphorus</b>
4/3/07 Sharpe	Unnamed tributary above discharge			0.425 mg/L	1.74 mg/L	0.068 mg/L
4/4/07 Rodabaugh	Upstream unnamed tributary			0.978 mg/L	1.50 mg/L	0.074 mg/L
4/3/07 Sharpe	Mixing point	4100 mg/L	4580 mg/L	<b>619 mg/L</b>	0.78 mg/L	18.9 mg/L
4/4/07 Rodabaugh	Tile outlet at SR 235			<b>292 mg/L</b>	0.45 mg/L	6.92 mg/L
4/4/07 Rodabaugh	Downstream unnamed tributary at SR 235			<b>145 mg/L</b>	1.13 mg/L	4.47 mg/L

Please note the bolded ammonia levels in the water quality samples collected in the unnamed tributary exceed Ohio's Water Quality Standards in Ohio Administrative Code Chapter 3745-1-07 for the protection of aquatic life. Ammonia concentrations higher than 13 mg/L in surface waters are likely to cause acute (immediate) impacts to aquatic life.

Findings

As a result of this incident, you are in violation of the following State regulations:

1. Ohio Revised Code 6111.04(A)(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. Ohio Administrative Code 3745-1-04(C) and (D)  
The following general water quality criteria shall apply to all surface waters of the State including mixing zones. To every extent practical and possible as determined by the Director, these waters shall be:
  - (C) Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance.

- (D) Free from substances entering the waters as a result of human activity in concentrations that are toxic or harmful to human, animal or aquatic life and/or are rapidly lethal in the mixing zone.
3. Ohio Administrative Code 3745-33-02(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, 3745-33.

Corrective Actions

At this time, Ohio EPA requires that the following corrective actions be taken by you to prevent additional discharges of manure into waters of the State:

1. Since your swine facility meets the definition of a large Concentrated Animal Feeding Operation (CAFO) and discharged pollutants to waters of the State, you have a duty to apply for a CAFO National Pollutant Discharge Elimination System (NPDES) permit.

Please complete the enclosed Application Form 1, Form 2B, and the Antidegradation Addendum and submit the forms along with a processing fee of \$200 made payable to the Treasurer of the State of Ohio. As soon as practical, but no later than **45 days of the date of this letter**, submit the enclosed forms, check, and copy of current Manure Management Plan to this office. To assist you in the completion of the permit application, I have enclosed an example packet.

2. In planning for and conducting future manure land application events, you should begin implementing the following best management practices regarding forecast monitoring and application on tile drained fields. These practices will be included in your NPDES permit.

The forecast shall be monitored prior to every land application event. Records shall be maintained that include the date, weather conditions (including percentage chance of rain) 24 hours prior to application, at the time of application, and 24 hours after application. Land application shall not occur if the forecast contains a greater than 50% chance of precipitation for any individual hour, for a period extending 24 hours after the commencement of land application.

For land application sites with subsurface tile drainage, all field tile outlets shall be visually monitored before, during and after application of manure to the site and record the results of that monitoring. Access shall be available to or methods/devices to stop or capture subsurface drain flow. If

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manure reaches the subsurface drain outlet to waters of the State, the application of manure shall cease and the flow stopped or captured.

Please submit the above requested items to the following address:  
Cathy Alexander, Ohio EPA, Division of Surface Water, P.O. Box 1049,  
Columbus, Ohio 43216-1049.

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 possible public health and nuisance complaints. Please note that failure to mitigate potential releases and failure to take the preventative measures as listed above to minimize further impacts to waters of the State will lead to escalated enforcement action from this Agency.

Should you have any questions, comments, or concerns please contact me at 614-644-2032 or via email at [rick.wilson@epa.state.oh.us](mailto:rick.wilson@epa.state.oh.us).

Sincerely,



Rick Wilson  
PTI, Compliance Assistance & CAFO Unit  
Division of Surface Water

Enclosures

cc: Kevin Elder, ODA-LEPP  
Gail Rodabaugh, ODA-LEPP  
Officer Scott Sharpe, ODNR-DOW  
Logan County SWCD  
Rob Hamilton, ODNR-DSWC