Additionally, please provide a report which details actions that have been taken or will be taken in order to prevent a reoccurrence of any spills from your dairy operation.

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

Should you have another spill of manure, please immediately call the Ohio EPA Spill Hotline at 1-800-282-9378. Alerting Ohio EPA of potential impacts to waters of the State allows this Agency to evaluate and respond to spills in a timely fashion. Environmental impacts can be lessened if agency personnel are aware of and can respond to such spills.

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 and the report requested above.

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 Dalton, OEPA-DERR
Cathy Berg, Ashland SWCD
Brian Banbury, ODNR-DOW
Kevin Elder, ODA-LEPP

OhioEPA
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

June 2, 2010

CERTIFIED MAIL

John Glessner
Ohio Fresh Eggs, LLC
10513 Croton Road
Croton, OH 43013-0288

Re: Notice of Violation, Egg Wash Water Discharge to Tymochtee Creek

Dear Mr. Glessner,

At approximately 8:25 a.m. on April 22, 2010, a complaint was received at this office in regards to a discharge of egg wash water from the center pivot fields near the Ohio Fresh Eggs (OFE) Marseilles Layer Site 6 facility. The complainant alleged that OFE had been applying egg wash water to the center pivot fields on Morral-Kirkpatrick Road and that a tile outlet between Township Roads 123 and 108 was gushing out foamy, pinkish water.

At approximately 8:35 a.m, the complaint was forwarded to Ohio Department of Agriculture, Livestock Environmental Permitting Program (ODA, LEPP) inspector Chris Rodabaugh. Mr. Rodabaugh indicated that he would go out immediately to investigate the complaint.

Mr. Rodabaugh arrived at the center pivot fields located south of the Marseilles Layer Site 6 facility at approximately 9:30 a.m. All three center pivot fields (east, middle, and west) were operating when Chris arrived at the site. A large amount of standing water was observed in the middle center pivot field. The middle center pivot did not appear to be moving but it was still irrigating egg wash water. The main tile outlet from the center pivot fields was observed at its outlet into the unnamed tributary to Carroll Ditch. The tile was observed to be discharging a significant amount of liquid. Chris notified Joe Laffoon, Director of Operations for the northern Ohio Fresh Eggs facilities, of the ongoing discharge. An OFE employee came out at approximately 9:45 a.m. to shut down the center pivots. Chris observed pink water flowing around the gates in the catch basins which had been installed in the center pivot fields after tiles were installed last year. OFE employees began to pump liquid out of the catch basins at approximately 11:05 a.m.

Jon Bernstein (Ohio EPA, Division of Surface Water) arrived in the area at approximately 11:45 a.m. The tile outlet at the unnamed tributary was observed and

several water quality samples were collected. Samples were collected from the unnamed tributary upstream of the discharge, from the tile outlet, and from the mixing zone of the discharge and the unnamed tributary. The unnamed tributary joins Carroll Ditch before Carroll Ditch discharges to Tymochtee Creek. The results of these samples can be seen below:

Table 1. Sample collected upstream of tile discharge, north of Morral-Kirkpatrick Road.

Parameter	Result	Units
BOD_5	<2.0	mg/L
Ammonia	0.304	mg/L
Nitrate+Nitrite	<0.10	mg/L
Total Kjeldahl Nitrogen	1.00	mg/L
Total Phosphorus	0.167	mg/L

Table 2. Sample collected directly from tile outlet discharge.

Parameter	Result	Units
BOD_5	190	mg/L
Ammonia	32.0	mg/L
Nitrate+Nitrite	0.24	mg/L
Total Kjeldahl Nitrogen	48.8	mg/L
Total Phosphorus	9.32	mg/L

Table 3. Sample collected in mixing zone of tile discharge and unnamed tributary.

Parameter	Result	Units
BOD_5	140	mg/L
Ammonia	32.0	mg/L
Nitrate+Nitrite	0.20	mg/L
Total Kjeldahl Nitrogen	45.1	mg/L
Total Phosphorus	9.36	mg/L

Soon after the samples were collected machinery was used to excavate and crush the tiles which lead into the catch basins in the center pivot fields. A large amount of egg wash water was observed in the excavated areas (see Figure 2) and also within the catch basins near the east and middle center pivot field application areas.

The middle center pivot field was observed while excavation work was ongoing. There was heavy ponding of egg wash water in the middle center pivot field. Some of the ponded water had a red color while other areas of ponded water had green algae growing in them. This seems to indicate that the ponded water had been there for an extended period of time.

Several more water quality samples were collected between 1:30 p.m. and 3:25 p.m. It should be noted that on-scene personnel expected that the excavation of the tiles leading into the catch basins would eliminate or greatly diminish the flow coming out of the main tile outlet. Flow was observed to have been reduced by perhaps 50% at the time the sample in Table 7 was collected from the tile outlet.

Table 4. Sample collected in Carroll Ditch at Marseilles-Gallion Road.

Parameter	Result	Units
BOD_5	14	mg/L
Ammonia	2.39	mg/L
Nitrate+Nitrite	0.45	mg/L
Total Kjeldahl Nitrogen	4.10	mg/L
Total Phosphorus	0.622	mg/L

Table 5. Sample collected 10 feet upstream of the confluence of Carroll Ditch and Tymochtee Creek.

Parameter	Result	Units
Ammonia	0.079	mg/L
Nitrate+Nitrite	5.05	mg/L
Total Kjeldahl Nitrogen	0.53	mg/L
Total Phosphorus	<0.010	mg/L

Table 6. Sample collected 10 feet downstream of the confluence of Carroll Ditch and Tymochtee Creek.

Parameter	Result	Units
Ammonia	0.916	mg/L
Nitrate+Nitrite	3.69	mg/L
Total Kjeldahl Nitrogen	1.58	mg/L
Total Phosphorus	0.155	mg/L

Table 7. Second sample collected directly from tile outlet discharge.*

Parameter	Result	Units
Ammonia	37.8	mg/L
Nitrate+Nitrite	0.12	mg/L
Total Kjeldahl Nitrogen	53.2	mg/L
Total Phosphorus	9.84	mg/L

* This sample was collected approximately three hours after the excavation of the tile lines which entered the catch basins. The sample was collected before a backhoe was used to excavate the main tile located along Morral-Kirkpatrick Road at approximately 5:20 p.m.

At approximately 4:20 p.m., on-scene personnel decided that activities that had been undertaken so far had been unsuccessful in eliminating the discharge of egg wash water to the unnamed tributary. Mr. Rodabaugh contacted Joe Laffoon and indicated that the flow to the tile needed to be stopped immediately. OFE discussed the situation internally and decided to have a backhoe operator cut the main tile along the road near the eastern edge of the east center pivot application field. The backhoe operator cut the main tile and packed it with clay at approximately 5:20 p.m. The flow from the tile outlet was further reduced after this tile was cut.

On April 29, 2010, Jon Bernstein was provided with sample results from a water quality sample collected by Dave Fabian, Ohio Fresh Eggs compliance officer. The sample had been collected from the east center pivot field catch basin on April 25, 2010. Jon had requested that the sample be collected prior to OFE releasing the water remaining in the center pivot fields. Ohio EPA gave OFE approval to release the remaining water in the field after reviewing the results of the sample.

As a result of the discharge of egg wash water to the unnamed tributary, it is believed that Ohio Fresh Eggs has violated Ohio Revised Code 6111.

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.

Please remember that you are responsible for complying with your ODA permit-to-operate and Ohio's water pollution control laws.

You should be making every effort to develop strategies to ensure that incidents such as this do not happen again. At a minimum, we expect that the following items will be executed:

- Provide Ohio EPA with land application records for the April 22, 2010, land application of egg wash water which occurred on the east, middle, and west center pivot fields at Marseilles Layer Site 6.

- Develop training for employees who operate the center pivots. Employees should be able to understand the mechanics of the center pivots, soil conditions, and operational, maintenance and emergency procedures.

- Calibrate the center pivots in accordance with manufacturer specifications. Issues with the center pivots noted by ODA included incorrect nozzle sizes as well as unknown pumping rates. Pressure and flow rate should be field-verified in the calibration procedure and compared to the design values or the ranges recommended by the manufacturer. Pressure should always be measured at the nozzle, not at the pump or other location. A plan for proper calibration and maintenance of the center pivots should be developed.

- Continue to work with the Ohio Department of Natural Resources, Division of Soil and Water Resources on installing new tile control structures at the center pivot fields. It is my understanding that a tile stop structure may be installed at the east property line of the center pivot fields along Morral-Kirkpatrick Road.

This Notice of Violation does not preclude Ohio EPA or any other state or federal agency from seeking civil penalties or criminal charges against Ohio Fresh Eggs. If there is any statement in this letter which you believe is in error, please advise us in writing within 14 days.

Should you have any questions or concerns, feel free to contact me at 614-644-2021or at cathy.alexander@epa.state.oh.us.

Sincerely,

Cathy A. Alexander

Cathy Alexander, Supervisor
Modeling and Assessment & CAFO Unit
Division of Surface Water

cc: Kevin Elder, ODA-LEPP
Bill Palmer, Ohio EPA – SIU
Brad Ostendorf, US EPA

Figure 1. Egg wash water discharge to unnamed tributary

Figure 2. Heavy ponding of egg wash water in middle center pivot field

Figure 3. Large amount of liquid observed during excavation in middle center pivot field

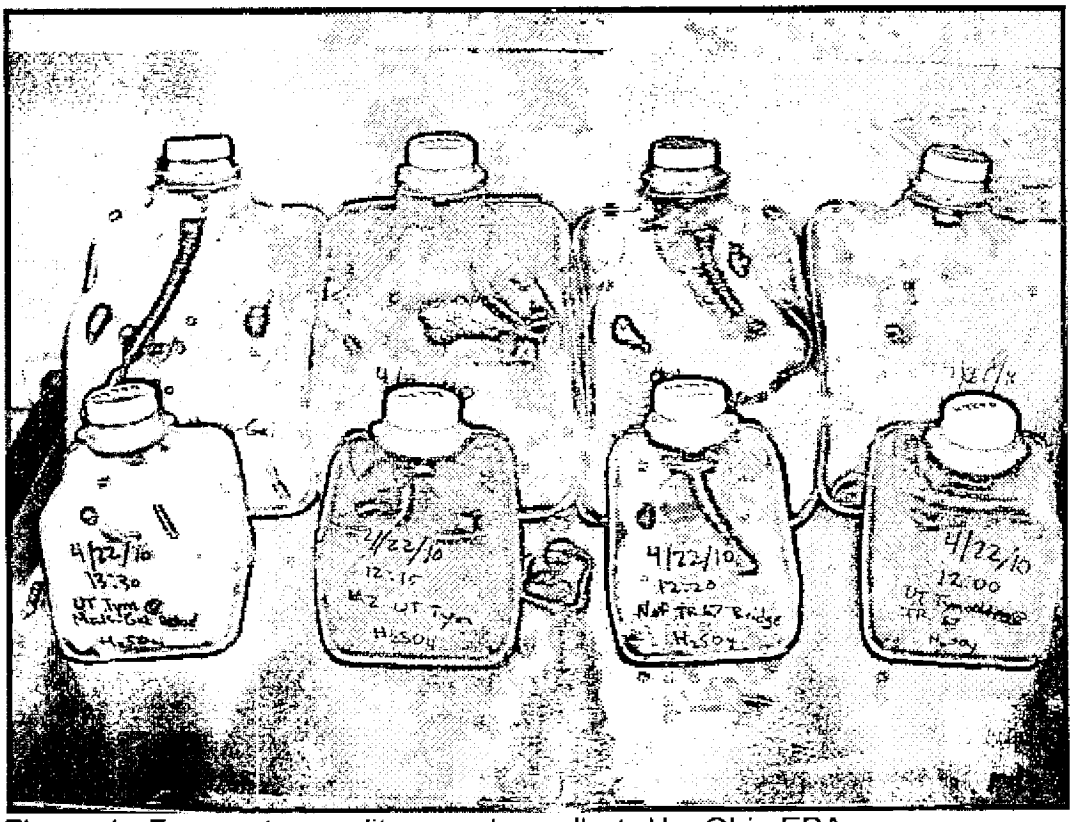

Figure 4. Four water quality samples collected by Ohio EPA

Figure 5. Four water quality samples collected by Ohio Department of Agriculture (left) and three samples collected by Ohio EPA