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Environmental Protection Agency

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

Certified Mail #91 7108 2133 3932 4449 1387

April 29, 2011

Fairfield County Commissioners
210 East Main Street
Lancaster, OH 43130

Re: Notice of Violation - Board of Commissioners Fairfield County Tussing Rd Water Reclamation Facility National Pollutant Discharge Elimination System (NPDES) Ohio EPA Permit 4PU00004

Dear Commissioners:

This correspondence serves as a **Notice of Violation** for noncompliance with requirements of your NPDES permit for the Tussing Road wastewater treatment plant.

Violations

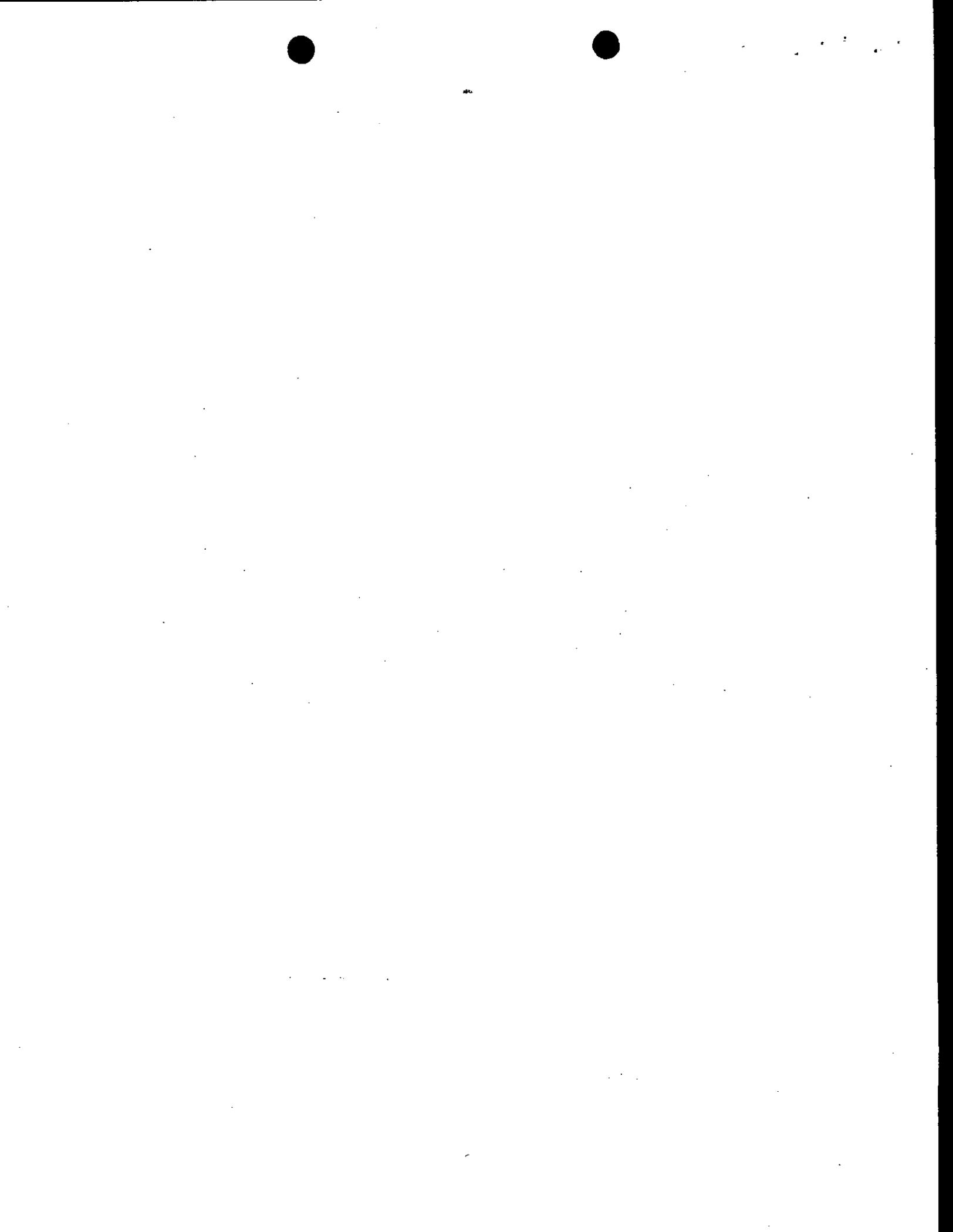
1. Violations of the NPDES discharge permit limitations have, and continue, to occur. Discharge monitoring reports submitted by Tussing Road WWTP personnel since August 2009 document permit limit violations for total phosphorus, dissolved oxygen and total dissolved solids (residue). These violations are listed in Attachment A.
2. No action has been taken by the Commissioners to comply with the compliance schedule contained in the permit. Each failure to meet an item of the compliance schedule constitutes additional, individual violations of your NPDES permit. These violations are listed in Attachment B.
3. Violation of the permit terms and conditions of NPDES Permit 4PU00004 is also a violation of Ohio Revised Code 6111.04 and 6111.07 which states:

6111.04 (C) No person to whom a permit has been issued shall place or discharge, or cause to be placed or discharged, in anywaters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes in excess of the permissive discharges specified under an existing permit without first receiving a permit from the director to do so.

6111.07 Prohibited acts - prosecutions and injunction by attorney general. No person shall violate or fail to perform any duty imposed by sections 6111.01 to 6111.08 of the Revised Code or violate any order, rule, or term or condition of a permit issued or adopted by the director of environmental protection pursuant to those sections. Each day of violation is a separate offense.

Central District Office
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049

614 | 728 3778
614 | 728 3898 (fax)
www.epa.ohio.gov



Additional Information

The Commissioners and the Ohio EPA are awaiting the outcome of the Ohio Environmental Review Appeals Commission (ERAC) review of the Commissioner's July 7, 2006, wastewater discharge permit appeal (Case No. 235929). The appeal did not invalidate the permit nor was a stay issued in this case. Therefore, the Commissioners are responsible for maintaining compliance with this NPDES permit even though they have appealed the permit. A copy of the appeal is included as Attachment C of this letter.

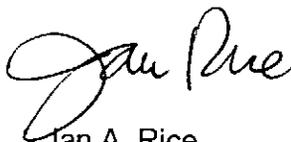
The Tussing Road WWTP has been placed on the U.S. EPA Significant Non-compliance (SNC) List due to both final effluent limitation violations which occurred during the six month period of time ending in February 2011 and failure to meet compliance schedule milestones. SNC is a programmatic definition used to identify those facilities that should receive priority enforcement attention either at the state or the federal level in association with federal reporting requirements at 40 CFR 123.45. In order to be removed from the SNC without a formal enforcement action being initiated you must maintain final effluent limitation compliance for three consecutive months and the compliance schedule milestones are achieved.

Requested Action

Ohio EPA requests that the Commissioners resolve the permit compliance schedule and effluent violations as expeditiously as possible. Please respond in writing by June 1, 2011, as to how the Commissioners plan to resolve the violations of their legally binding and unstayed NPDES permit.

If you have any questions regarding this matter please let me know. I can be reached by telephone at (614) 728-3850 or by e-mail at: jan.rice@epa.ohio.gov.

Sincerely,



Jan A. Rice
Environmental Specialist
Enforcement/Compliance Group
Division of Surface Water
Central District Office

c: Mr. Tony Vogel, P.E., Director of Utilities, Fairfield County Utilities, Administrative Office

ec: Bill Fischbein
George Elmaraghy
Mike Gallaway
Erin Sherer
Lawrence Helkowski



Attachment A

Fairfield County Board of Commissioners - Tussing Road (Ohio EPA No.: 4PU00004) Effluent Limitations Violations (8/1/09 – 3/31/11)

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
4PU00004*HD	August 2009	001	00515	Residue, Total Dissolv	30D Conc	1646	1976.66	8/1/2009
4PU00004*HD	September 2009	001	00665	Phosphorus, Total (P)	30D Conc	1.0	1.1025	9/1/2009
4PU00004*HD	September 2009	001	00515	Residue, Total Dissolv	30D Conc	1646	1967.5	9/1/2009
4PU00004*HD	October 2009	001	00515	Residue, Total Dissolv	30D Conc	1646	1665.83	10/1/2009
4PU00004*HD	December 2009	001	00665	Phosphorus, Total (P)	30D Conc	1.0	1.0625	12/1/2009
4PU00004*HD	January 2010	001	00665	Phosphorus, Total (P)	30D Conc	1.0	1.15	1/1/2010
4PU00004*HD	February 2010	001	00665	Phosphorus, Total (P)	30D Conc	1.0	1.6175	2/1/2010
4PU00004*HD	February 2010	001	00665	Phosphorus, Total (P)	30D Qty	11.4	12.4710	2/1/2010
4PU00004*HD	March 2010	001	00665	Phosphorus, Total (P)	30D Conc	1.0	1.4625	3/1/2010
4PU00004*HD	March 2010	001	00665	Phosphorus, Total (P)	30D Qty	11.4	13.4263	3/1/2010
4PU00004*HD	June 2010	001	00515	Residue, Total Dissolv	30D Conc	1646	1729.16	6/1/2010
4PU00004*HD	July 2010	001	00515	Residue, Total Dissolv	30D Conc	1646	1890.	7/1/2010
4PU00004*HD	July 2010	001	00300	Dissolved Oxygen	1D Conc	7.0	6.85	7/12/2010
4PU00004*HD	July 2010	001	00300	Dissolved Oxygen	1D Conc	7.0	6.99	7/19/2010
4PU00004*HD	July 2010	001	00300	Dissolved Oxygen	1D Conc	7.0	6.81	7/20/2010
4PU00004*HD	August 2010	001	00515	Residue, Total Dissolv	30D Conc	1646	1945.	8/1/2010
4PU00004*HD	September 2010	001	00515	Residue, Total Dissolv	30D Conc	1646	2088.33	9/1/2010
4PU00004*HD	October 2010	001	00515	Residue, Total Dissolv	30D Conc	1646	2045.	10/1/2010
4PU00004*HD	November 2010	001	00515	Residue, Total Dissolv	30D Conc	1646	1785.	11/1/2010
4PU00004*HD	January 2011	001	00665	Phosphorus, Total (P)	30D Conc	1.0	1.02	1/1/2011
4PU00004*HD	January 2011	001	00515	Residue, Total Dissolv	30D Conc	1646	1726.66	1/1/2011

Attachment B

Fairfield County Board of Commissioners - Tussing Road (Ohio EPA No.: 4PU00004) Compliance Schedule Violations

Permit No	App No	Permit Effective Date	Permit Expiration Date	Schedule Due Date	Completion Date	Event Code	Schedule Type	Schedule Milestone
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	2/1/2007	Not Completed	95999	Other	Status Report
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	8/1/2007	Not Completed	95999	Other	Status Report
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	8/1/2007	Not Completed	1299	Construction	Final Plan Submitted
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	8/1/2008	Not Completed	95999	Other	Status Report
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	8/1/2009	Not Completed	5699	Construction	Final Compliance w/ Eff Limits
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	8/1/2009	Not Completed	5699	Construction	Final Compliance w/ Eff Limits
4PU00004*HD	OH0054305	8/1/2006	7/31/2010	8/1/2010	Not Completed	1299	Construction	Final Plan Submitted

RECEIVED BY ENVIRONMENTAL REVIEW APPEALS COMMISSION
BEFORE THE ENVIRONMENTAL REVIEW APPEALS COMMISSION
STATE OF OHIO

2006 JUL 27 AM 1:53

BOARD OF COMMISSIONERS OF)
FAIRFIELD COUNTY)
210 East Main Street)
Lancaster, Ohio 43130)
Phone # (614) 833-0884)

Case No. 235929

Appellant,)

v.)

JOSEPH KONCELIK, DIRECTOR OF)
ENVIRONMENTAL PROTECTION)
Lazarus Government Center)
122 S. Front Street)
P.O. Box 1049)
Columbus, OH 43216-1049)

Appellee.)

RECEIVED - 1 PM 2-19
JUL 27 2006

NOTICE OF APPEAL

Pursuant to R.C. §3745.04, notice is hereby given of Fairfield County's appeal to the Environmental Review Appeals Commission ("ERAC") from the June 30, 2006 final action of the Director of the Ohio Environmental Protection Agency ("Director"), issuing an National Pollutant Discharge Elimination System permit ("NPDES"), Ohio EPA Permit No. 4PU00004*HD ("Permit"), to Fairfield County, a copy of which is attached as Exhibit A.

Appellant assigns as error the following items, reserving its right to amend or supplement the assignments of error as further information becomes available to it.

1. The discharge limitations on Total Dissolved Residue (Solids) ("TDS") are unreasonable and unlawful.
2. The discharge limitations on Total Phosphorus are unreasonable and unlawful.
3. The schedule of compliance for TDS is unreasonable and unlawful.



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