

BEFORE THE

OHIO E.P.A.

OHIO ENVIRONMENTAL PROTECTION AGENCY

OCT 24 2001

ENTERED DIRECTOR'S JOURNAL

In the matter of:

BUCKEYE EGG FARM, L.P.  
11212 Croton Road  
P.O. Box 173  
Croton, Ohio 43013

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Director's Final Findings  
and Orders

PREAMBLE

Pursuant to Ohio Revised Code ("ORC") Sections 6111.03 and 3745.01, the Director of the Ohio Environmental Protection Agency ("Ohio EPA") hereby makes the following Findings and issues the following Orders:

PARTIES

These Orders shall apply to and be binding upon Buckeye Egg Farm, L.P. ("Respondent"), and its successors in interest liable under Ohio law. No change in ownership relating to the facilities shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the Director of the Ohio Environmental Protection Agency ("Director").

FINDINGS OF FACT

Respondent controls and operates a chicken egg production facility in and around Hartford, Licking County, Ohio. Hartford, Licking County, Ohio is also referred to as Croton, Licking County, Ohio. Respondent's facility in Licking County is comprised of at least the following production and support units (collectively and hereinafter referred to as "the Croton facilities"):

- a. A sixteen (16) building layer facility known as "Croton Layer Site #1" located in Hartford Township, Licking County, Ohio;
- b. A sixteen (16) building layer facility know as "Croton Layer Site #2" located in Monroe Township, Licking County, Ohio;
- c. A sixteen (16) building layer facility known as "Croton Layer Site #3" located in Hartford Township, Licking County, Ohio;
- d. A sixteen (16) building layer facility known as "Croton Layer Site #4" located in Hartford Township, Licking County, Ohio;

I certify this to be a true and accurate copy of the original document as filed in the records of the Ohio Environmental Protection Agency

*[Signature]*  
10/24/01  
Date

- e. A five (5) building pullet facility known as "Croton Pullet Site #1" located in Hartford Township, Licking County, Ohio;
  - f. A six (6) building pullet facility known as "Croton Pullet Site #2" located in Hartford Township, Licking County, Ohio;
  - g. A five (5) building pullet facility known as "Croton Pullet Site #3" located in Monroe Township, Licking County, Ohio;
  - h. A five (5) building pullet facility known as "Croton Pullet Site #4" located in Hartford Township, Licking County, Ohio;
  - i. A hatchery facility located in Bennington Township, Licking County, Ohio;
  - j. A breeder layer and breeder pullet facility located in Bennington Township, Licking County, Ohio.
2. Respondent controls and operates a chicken egg production facility located at 20279 County Road 245, Mt. Victory, Hardin County, Ohio near the Village of LaRue, Hardin County, Ohio (hereinafter referred to as "Mt. Victory facility").
  3. Respondent controls and operates a large chicken egg production facility located at 11873 County Road 77, Harpster, Wyandot County, Ohio (hereinafter referred to as "Marseilles facility").
  4. Respondent controls and operates a pullet facility located at 12541 County Road 255, LaRue, Hardin County, Ohio (hereinafter referred to as "Goshen Pullet #1").
  5. ORC Section 6111.04 prohibits any person from causing pollution or causing any sewerage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the State of Ohio except if such discharges occur in accordance with a permit issued by the Director.
  6. On at least those dates listed in Attachment A of these Orders, Ohio EPA documented discharges from Respondent's facilities.
  7. Raccoon Creek and the unnamed tributaries which feed into Raccoon Creek, Lobdell Creek and the unnamed tributaries which feed into Lobdell Creek, the East Fork of Rattlesnake Creek, the unnamed tributaries which feed into Tymochtee Creek, the unnamed tributaries which feed into Paw Paw Run, the unnamed tributaries which feed into Otter fork, the unnamed tributaries which feed into McDonald Creek and the various drainage ditches in and around all of the

Respondent's facilities are "waters of the state" as that term is defined in ORC Section 6111.01(H).

8. Ammonia - nitrogen constitutes "other wastes" as that term is defined in ORC Section 6111.01(D).
9. Manure contaminated egg wash water, manure contaminated storm water, manure contaminated power washing wastewater, and manure generated at the Respondent's facilities are "sewage," as that term is defined at ORC Section 6111.01(B).
10. The term "pollution," as defined in ORC Section 6111.01(A), includes, but is not limited to, the placing of "sewage" and "other wastes" in any "waters of the State."
11. The discharges contained in Attachment A to these Orders, which are incorporated into this Finding as if fully written herein, are not authorized by or in accordance with a valid, unexpired permit issued by the Director.
12. On November 13, 2000, Lisa Morris, Chief, Division of Surface Water, forwarded correspondence to Respondent (c/o Anton Pohlmann) requesting that a National Pollutant Discharge Elimination System ("NPDES") permit application for the Croton Facility be submitted as the Croton Facility qualifies as a point source under Ohio Administrative Code ("OAC") Chapter 3745-33, and the applicable federal regulations, 40 CFR Part 122.
13. As of the effective date of these Orders, Respondent has failed to submit a facility wide NPDES permit application to the Director.
14. At the Mt. Victory facility, the storm water ponds are discharging ammonia at high levels; sampling data available indicates levels of ammonia of 1.35 mg/l to 8.28 mg/l. This constitutes an unauthorized discharge in violation of ORC Chapter 6111 since these discharges are not authorized in any NPDES permit.
15. At the Marseilles facility, the storm water ponds are discharging ammonia at levels ranging from 0.1 mg/l to 11.4 mg/l, with an average of 2.9 mg/l, as reported in Respondent's monthly operating reports ("MORs"). The application submitted by the Respondent did not indicate significant levels of ammonia would be present in the discharge.
16. At the Goshen facility, the storm water ponds are discharging ammonia at levels ranging from 0.1 mg/l to 8.4 mg/l, with an average of 3.1 mg/l, as reported in Respondent's MORs. The application submitted by the Respondent did not indicate

significant levels of ammonia would be present in the discharge.

17. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

### ORDERS

1. Within thirty (30) days of the effective date of these Orders, Respondent shall submit to the Ohio EPA complete and approvable individual NPDES permit applications for all of the Respondent's facilities identified in these Orders.
2. The applications must address all sources of pollution from the facilities, including, but not limited to, contaminated storm water, manure storage and handling, egg wash wastewater storage and handling, and sewage and raw material storage.
3. These applications should be sent to the attention of:

Cathy Alexander  
PTI Unit Supervisor  
Division of Surface Water  
122 South Front Street  
P.O. Box 1049  
Columbus, Ohio 43216-1049.

### OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent and its operations.

### RESERVATION OF RIGHTS

These Orders do not prevent Ohio EPA from enforcing the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for the violations cited in these Orders or for noncompliance with these Orders. These Orders do not prevent Ohio EPA from exercising its authority to require Respondent to perform additional activities pursuant to Chapter 6111 of the Ohio Revised Code or any other applicable law in the future. These Orders do not limit the authority of Ohio EPA to seek relief for violations not cited in these Orders.

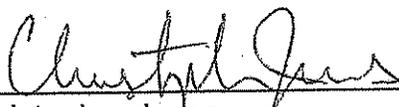
### TERMINATION

The Respondent's obligations under these Orders shall be satisfied and terminated when the Respondent demonstrates in writing and certifies to the satisfaction of the Ohio EPA that it has satisfied all its obligations under these Orders, and the Chief of Ohio EPA's Division of Surface Water acknowledges the termination of these Orders in writing.

This certification shall be submitted by the Respondent to the Central Office (attention: DSW PTI Unit Supervisor) and shall be signed by a responsible official of the Respondent. A responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, OAC Rule 3745-33-03(D)(2) for a partnership, OAC Rule 3745-33-03(D)(3) for a sole proprietorship, and OAC Rule 3745-33-03(D)(4) for a municipal, state, or other public facility. The certification shall contain the following attestation:

*"I certify under the penalty of law that I have personally examined and are familiar with the information contained in or accompanying this certification, and based on inquiry of those individuals immediately responsible for obtaining the information, I believe the information contained in or accompanying this certification is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment."*

**IT IS SO ORDERED:**  
**Ohio Environmental Protection Agency**

  
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Christopher Jones  
Director

Date: 10-23-01

## ATTACHMENT A

### CROTON FACILITIES

DATE	DISCHARGE	RECEIVING STREAM
8-05-01	Egg Wash Water	unnamed tributary ("u.t"). to Raccoon Creek
7-25-01	Contaminated Storm Water	u.t. to Otter Fork
4-12-01	Contaminated Storm Water	u.t. to Otter Fork
4-26-00	Manure Spill	u.t. to Raccoon Creek
4-08-00	Contaminated Storm Water	u.t. to Raccoon Creek and u.t. to Otter Fork
4-07-00	Contaminated Storm Water	u.t. to Raccoon Creek
4-04-00	Contaminated Storm Water	u.t. to Raccoon Creek and u.t. to Otter Fork
4-03-00	Contaminated Storm Water	u.t. to Raccoon Creek
4-03-00	Manure Spill	u.t. to Raccoon Creek
4-03-00	Power Washing Wastewater	East Fork Rattlesnake Creek
4-02-00	Contaminated Storm Water	u.t. to Raccoon Creek
3-30-00	Manure Spill	u.t. to Raccoon Creek
3-28-00	Manure Spill	u.t. to Raccoon Creek
3-23-00	Manure Spill	u.t. to Raccoon Creek
3-22-00	Manure Spill	u.t. to Raccoon Creek
3-22-00	Manure Spill	u.t. to Raccoon Creek
3-22-00	Manure Spill	u.t. to Otter Fork
3-18-00	Manure Spill	u.t. to Raccoon Creek
3-16-00	Manure Spill	u.t. to Raccoon Creek
3-10-00	Manure Spill	u.t. to Raccoon Creek
3-02-00	Manure Spill	u.t. to Raccoon Creek
3-02-00	Manure Spill	u.t. to Lobdell Creek
2-18-00	Contaminated Storm Water	u.t. to Otter Fork
1-04-00	Contaminated Storm Water	u.t. to Otter Fork

12-14-99	Contaminated Storm Water	u.t. to Otter Fork
12-10-99	Contaminated Storm Water	u.t. to Otter Fork
12-09-99	Manure Spill	u.t. to Racoon Creek
12-08-99	Manure Spill	u.t. to Racoon Creek
12-07-99	Contaminated Storm Water	u.t. to Otter Fork
12-07-99	Manure Spill	u.t. to Racoon Creek
12-03-99	Contaminated Storm Water	u.t. to Otter Fork
12-01-99	Manure Spill	u.t. to Otter Fork
11-02-99	Contaminated Storm Water	u.t. to Otter Fork
11-01-99	Contaminated Storm Water	u.t. to Otter Fork
11-01-99	Manure Spill	u.t. to Otter Fork
8-25-99	Contaminated Storm Water	u.t. to Otter Fork
8-04-99	Manure Spill	u.t. to Otter Fork
6-11-99	Sewage & other waste	u.t. to Racoon Creek
6-07-99	Sewage & other waste	u.t. to Racoon Creek
6-04-99	Egg Wash Water	u.t. to Racoon Creek
6-03-99	Egg Wash Water	u.t. to Racoon Creek
5-27-99	Manure Spill	Lobdell Creek
4-25-99	Ammonia-Nitrogen	Racoon Creek
2-2-99	Contaminated Storm Water	u.t. to Racoon Creek
1-29-99	Contaminated Storm Water	u.t. to Racoon Creek
5-1-95	Egg Wash Water	u.t. to Racoon Creek
2-27-96	Egg Wash Water	u.t. to Otter Fork
1-16-98	Egg Wash Water	u.t. to Racoon Creek

**MARSEILLES FACILITIES**

DATE	DISCHARGE	RECEIVING STREAM
5-01-01	Egg Wash Water	u.t. to Tymochtee
4-23-01	Egg Wash Water	u.t. to Tymochtee
11-7-00	Egg Wash Water	u.t. to Tymochtee

**MT. VICTORY FACILITIES**

DATE	DISCHARGE	RECEIVING STREAM
6-21-01	Egg Wash Water	u.t. to McDonald Creek
8-25-99	Contaminated Storm Water	u.t. to McDonald Creek
12-18-97	Egg Wash Water	u.t. to McDonald Creek
8-21-96	Contaminated Storm Water	u.t. to McDonald Creek