

3. At approximately 11:30 am on October 26, 2009, inspectors from the Ohio EPA Division of Surface Water discovered an unlawful discharge entering Needles Creek downstream of the Site. Upon further investigation it was determined that it was coming from the Respondent's property. Needles Creek constitutes "waters of the state" as defined in ORC 6111.01.
4. Upon investigation, it was determined that silage leachate from Respondent's Site had migrated into a pipe used for conveying clean storm water to the storm water pond. The contaminated water then discharged from the storm water pond overflow pipe into the roadside ditch and subsequently to Needles Creek.
5. On December 2, 2009 the PTI, Compliance Assistance, & Concentrated Animal Feeding Operation ("CAFO") unit issued a Notice of Violation ("NOV") to Respondent. The NOV requested an application be submitted for a CAFO National Pollutant Discharge Elimination System (NPDES) permit by December 30, 2009.
6. An NPDES permit application was received on December 30, 2009 from the Respondent. Upon review of the application by Ohio EPA, it was discovered that no Manure Management Plan ("MMP") accompanied the NPDES permit application, which is a requirement to obtain a CAFO NPDES permit.
7. An email was sent on April 20, 2010 to the Respondent indicating the permit application was incomplete until a MMP was received. A follow-up letter was also sent by Ohio EPA on July 20, 2010 to Respondent. Although Respondent indicated that a plan would be forthcoming on various occasions, to date, no MMP has been submitted.
8. ORC § 6111.04 prohibits any person from causing pollution or causing any sewage, industrial waste or other waste to be placed in any location where they cause pollution to waters of the state, except if such discharges occur in accordance with an NPDES permit issued by the Director.
9. ORC § 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by ORC §§ 6111.01 to 6111.08, or violating any order, rule, or term or condition of a permit issued by the Director pursuant to those sections. Each day of violation represents a separate violation.
10. Respondent's actions described above caused pollution or caused sewage, industrial waste or other waste to be placed in a location where they cause pollution to waters of the state, and as such is a violation of ORC §§ 6111.04 and 6111.07.

11. 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 purpose of ORC Chapter 6111.

V. ORDERS

1. Within forty five (45) days after the effective date of these Orders, Reyskens Dairy, LLC shall submit for approval a Manure Management Plan in accordance with Section X of these Orders in order to complete its NPDES permit application for a 3-year NPDES permit.
2. Within thirty (30) days of receiving Ohio EPA's comments on the Manure Management Plan, Reyskens Dairy, LLC shall submit all corrections (if any) in accordance with Section X of these Orders.
3. Ohio EPA agrees that any NPDES permit issued in response to the pending application of Reyskens Dairy, LLC will have a term of no more than three years.
4. Respondent shall pay the amount of four thousand dollars (\$4,000.00), in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for four thousand dollars (\$4,000.00) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA, Division of Surface Water, Central Office, in accordance with Section X of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent

shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring on or at the Facility.

VIII. 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. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Central Office
P.O. Box 1049
Columbus, OH 43216-1049
(ATTN: Enforcement Supervisor)

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

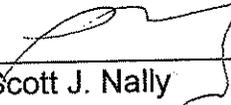
XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

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



Scott J. Nally
Director

9/29/11

Date

**IT IS SO AGREED:
Reyskens Dairy, LLC**



Signature

9-12-2011

Date

Mark van de Heijning

Printed or Typed Name

Manager

Title

Reyskens Dairy Leasing, LLC



Signature

9-12-2011

Date

Carolus van de Heijning

Printed or Typed Name

MANAGER

Title