

National Pollutant Discharge Elimination System (NPDES) Permit Program

F A C T S H E E T

Regarding an NPDES Permit To Discharge to Waters of the State of Ohio  
for the **Midwest Poultry Services, L.P. Sunny Side Farms**

Public Notice No.: 11-01-020  
Public Notice Date: January 13, 2011  
Comment Period Ends: February 13, 2011

OEPA Permit No.: **1IK00003\*BD**  
Application No.: **OH0133744**

Name and Address of Applicant:

**Midwest Poultry Services, L.P.  
Sunny Side Farms  
374 New Weston-Ft. Loramie Rd.  
Ft. Recovery, Ohio 45846**

Name and Address of Facility Where  
Discharge Occurs:

**Same As Applicant  
Darke County**

Receiving Water: **Henry Ditch**

Subsequent  
Stream Network: **Simison Creek  
Wabash River  
Ohio River**

Introduction

Development of a Fact Sheet for NPDES permits is mandated by Title 40 of the Code of Federal Regulations, Section 124.8 and 124.56. This document fulfills the requirements established in those regulations by providing the information necessary to inform the public of actions proposed by the Ohio Environmental Protection Agency, as well as the methods by which the public can participate in the process of finalizing those actions.

This Fact Sheet is prepared in order to document the technical basis and risk management decisions that are considered in the determination of water quality based NPDES Permit effluent limitations. The technical basis for the Fact Sheet may consist of evaluations of promulgated effluent guidelines, existing effluent quality, instream biological, chemical and physical conditions, and the relative risk of alternative effluent limitations. This Fact Sheet details the discretionary decision-making process empowered to the Director by the Clean Water Act and Ohio Water Pollution Control Law (ORC 6111). Decisions to award variances to Water Quality Standards or promulgated effluent guidelines for economic or technological reasons will also be justified in the Fact Sheet where necessary.

Procedures for Participation in the Formulation of Final Determinations

The draft action shall be issued as a final action unless the Director revises the draft after consideration of the record of a public meeting or written comments, or upon disapproval by the Administrator of the U.S. Environmental Protection Agency.

Within thirty days of the date of the Public Notice, any person may request or petition for a public meeting for presentation of evidence, statements or opinions. The purpose of the public meeting is to obtain additional evidence. Statements concerning the issues raised by the party requesting the meeting are invited. Evidence may be presented by the applicant, the state, and other parties, and following presentation of such evidence other interested persons may present testimony of facts or statements of opinion.

Requests for public meetings shall be in writing and shall state the action of the Director objected to, the questions to be considered, and the reasons the action is contested. Such requests should be addressed to:

**Legal Records Section  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049**

Interested persons are invited to submit written comments upon the discharge permit. Comments should be submitted in person or by mail no later than 30 days after the date of this Public Notice. Deliver or mail all comments to:

**Ohio Environmental Protection Agency  
Attention: Division of Surface Water  
Permits and Compliance Section  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049**

The OEPA permit number and Public Notice numbers should appear on each page of any submitted comments. All comments received no later than 30 days after the date of the Public Notice will be considered.

Citizens may conduct file reviews regarding specific companies or sites. Appointments are necessary to conduct file reviews, because requests to review files have increased dramatically in recent years. For requests to copy more than 250 pages, there is a five-cent charge for each page copied. Payment is required by check or money order, made payable to Treasurer State of Ohio.

## Background

The National Pollutant Discharge Elimination System (NPDES), created under the Clean Water Act of 1972, provides a means for monitoring, tracking, and preventing discharges of pollutants to waters of the states. Section 301 of the Clean Water Act and 40 CFR 122.1(b) requires NPDES permits for the discharge of pollutants from any point source into waters of the State. Pursuant to Section 502(14) of the Clean Water Act and 40 CFR 122.2, a Concentrated Animal Feeding Operation (CAFO) is listed in the definition of a point source. A discharge can be considered any addition of any pollutant or combination of pollutants to water of the United States. This includes runoff from feedlots, stock piled manure, silage bunkers, overflow from storage ponds, overflow from animal watering systems, and runoff from fields on which manure is not applied in accordance with proper agricultural practices.

Waters of the United States not only include rivers, streams, intermittent streams and lakes, but also irrigation ditches, laterals, canals, etc. which eventually flow into rivers, streams, and lakes.

Other federal regulations require concentrated animal feeding operations to acquire an NPDES permit. These include, but are not limited to the following:

- 40 CFR 122.3: Establishes concentrated animal feeding operations as “point sources subject to the NPDES permit program”.
- 40 CFR 122.21: States that all CAFOs that discharge or propose to discharge have a duty to seek coverage under an NPDES permit.
- 40 CFR 122.23: Details the fact that CAFOs are point sources that require NPDES permits for discharges or proposed discharges. Once an operation is defined as a CAFO, best management practices for CAFOs apply to all animals in confinement at the operation and all manure, litter and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

Based on 40 CFR 122.23, Midwest Poultry Services, L.P. Sunny Side Farms meets the definition of a large CAFO and is required to maintain coverage under an NPDES permit.

This permit does not allow a discharge of manure except under extreme circumstances as specified in Part I, A of the permit. An extreme weather related discharge is defined as an overflow due to a 25-year, 24-hour (or greater) storm event or a chronic rainfall that is deemed excessive by the Ohio EPA. In the event of a severe storm and a discharge occurs, Ohio Water Quality Standards may not be violated by any discharge from the production area.

There are several pollutants associated with discharges from CAFOs, including: nutrients (particularly nitrogen and phosphorus), organic matter, solids, pathogens, and odorous/volatile compounds. Additional pollutants also include salts and trace elements and to a lesser degree antibiotics, pesticides, and hormones. These pollutants can enter the environment through a number of pathways, including: surface runoff and erosion, overflows from lagoons, spills and other dry-weather discharges, leaching into soil and groundwater, and volatilization of compounds and subsequent redeposition to the landscape. These discharges of pollutants can originate from animal confinement areas, manure handling and containment systems, manure stockpiles, and cropland where manure is applied. However, the NPDES permit will generally prohibit discharge of these to waters of the State.

The Sunny Side Farms facility is currently permitted by the Ohio EPA, Division of Surface Water and the Ohio Department of Agriculture, Livestock Environmental Permitting Program (ODA, LEPP) for 480,000 laying hens for egg production. Sunny Side Farms has had several discharges that did not occur as a result of a 25-year, 24-hour storm event. Therefore, the facility is required to maintain permit coverage under a CAFO NPDES permit.

#### Location of CAFO/Receiving Water Use Classification

Midwest Poultry Services, L.P. Sunny Side Farms is located on New Weston-Ft. Loramie Road near Ft. Recovery, Ohio in Mississinawa Township, Darke County. The nearest stream to the Sunny Side Farms facility is Henry Ditch. The subsequent stream network includes Simison Creek, Wabash River, and ultimately the Ohio River. Sunny Side Farms is in the Eastern Corn Belt Plains Ecoregion. Figure 1 shows the approximate location of the facility and the surrounding area. Figure 2 shows the Henry Ditch watershed as part of the larger Wabash River watershed along with pertinent water quality information.

Henry Ditch and Simison Creek have not been designated under Ohio Water Quality Standards (OAC 3745-1-29). However, the aquatic life criteria for a warmwater habitat apply to these streams in accordance with OAC 3745-1-7.

#### Facility Description

Midwest Poultry Services, L.P. Sunny Side Farm is a large Concentrated Animal Feeding Operation that is designed to house 480,000 laying hens in shallow pit barns for egg production. The facility currently confines 360,000 laying hens in order to conform to United Egg Producer (UEP) guidelines. The manure is scraped from the barns and moved to one of two manure storage barns. There is an egg processing building located at the facility and the egg washwater is stored in a two-stage earthen lagoon. The egg wash water lagoon is designed to handle all of the washwater produced at the facility as well as rainfall and runoff from a 25-year, 24-hour storm event. Egg washwater is land applied on adjacent cropland.

#### Description of Land Application Procedures

At the Midwest Poultry Services, L.P. Sunny Side Farms, the poultry manure is sold to local crop farmers for land application and the egg wash water is land applied on the adjacent land owner's crop field. Midwest Poultry Services, L.P. Sunny Side Farms currently has a manure management plan developed through the Ohio Department of Agriculture in accordance with their Permit to Operate. This plan is available by contacting Ohio EPA. Please note that a portion of the manure management plan conditions become effective upon permit coverage, such as monitoring and inspection requirements, setbacks, timing restrictions, etc. See Section "Additional Effluent Limitations and Monitoring Requirements" below. As stated in Part II, K, Ohio EPA can notify Sunny Side Farms at any time that the plan does not meet the minimum requirements of the permit and request plan modifications, which are required to be completed within 30 days of notification. It should be noted that comments regarding manure management plan requirements contained in the permit conditions should be made during this public notice period of the draft permit.

#### Receiving Water Quality / Environmental Hazard Assessment

Ohio EPA conducted a detailed chemical and biological water quality survey of the Wabash River watershed in 1999 in support of the development of the Wabash River Total Maximum Daily Load (TMDL) report. Henry Ditch was surveyed. At river mile 1.5, the criteria for the use designation of Warmwater Habitat was not being attained.

Henry Ditch was included in the Wabash River TMDL finalized in July of 2004. Please see the *Total Maximum Daily Load (TMDL) for the Wabash River Watershed, Ohio* (U.S. EPA Region 5) for more information. Sources of impairment in the assessment unit containing Henry Ditch included: minor municipal point sources, nonirrigated crop production, animal feeding operations, channelization (agriculture), removal of riparian vegetation, and streambank destabilization. The following quote describes the water quality in the watershed, “many small streams in the Wabash River watershed are degraded by excessive nutrient levels from farm fertilizer runoff, poorly managed livestock waste, home septic systems, and some municipal wastewater. Few wooded areas exist next to these streams. Without vegetation to trap eroded soil, bottom substrate are often smothered with silt. High bedload delivery and transport are components of hydromodification and direct habit alterations”. The TMDL addresses sediment and nutrient loadings in the Wabash River and includes recommendations for improving instream habitat.

#### Outfall Information and Parameter Selection

The following excerpts from the Ohio Administrative Code (OAC) give the Ohio EPA the right to require monitoring of specific parameters in NPDES permits:

- OAC 3745-33-08(D): The director may include in an Ohio NPDES permit any other terms or conditions he finds reasonable and appropriate for the prevention and abatement of pollution.
- OAC 3745-33-07(A)(3): Pollutant monitoring of pollutants in groups one, two, or three of the pollutant assessment may be specified by the director.

The most commonly recognized pollutants associated with Concentrated Animal Feeding Operations include biochemical oxygen demand (BOD), total suspended solids (TSS), organics, bacteria, and nutrients. Typically these nutrients are in the form of various nitrogen and phosphorus compounds. These pollutants have the potential to impair water quality and fall within groups 2 or 3 of the pollutant assessment.

It is the intent of the NPDES permit to ensure that these substances do not impair water quality. Therefore, the permit has been set up in such a way as to monitor sites or sampling stations that cause, or have the potential to cause, water quality violations. The sampling stations are described as follows.

#### *Station 901*

Monitoring Station 901 (Table 2) shall refer to the unnamed tributary of Henry Ditch just prior to the confluence with Henry Ditch that receives storm water from the Sunny Side Farms. Samples for conventional pollutants (5-day Biochemical Oxygen Demand, Total Suspended Solids, Ammonia-Nitrogen, Total Kjeldahl Nitrogen, and Total Phosphorus) along with a record of precipitation shall be taken at a frequency of once per month during the months of May and November at times when the unnamed tributary is discharging.

### Additional Effluent Limitations and Monitoring Requirements

Effluent limitations and monitoring requirements contained in Parts II and VII of the permit are based on 40 CFR Parts 122, 123, 412, OAC Chapters 901:10-2, United States Department of Agriculture Natural Resources Conservation Service (USDA-NRCS) Practice Standards, and best professional judgment.

The NPDES permit requires the development of a manure management plan (MMP). The MMP shall address the form, source, amount, timing, agronomic rate, and method of application of nutrients to each field to achieve compliance with Part I, A of the permit, assure appropriate agricultural utilization of the nutrients, and minimize movement of pollutants to surface waters.

The NPDES permit requires the submission of an annual report to Ohio EPA in Part II that shall include at a minimum the following information:

1. The number and type of animals confined in the previous year.
2. Estimated amount of manure generated in the previous year in gallons or tons.
3. Total amount of manure removed from the facility for land application and/or distribution or utilization in gallons or tons.
4. Total number of acres for land application covered by MMP.
5. Total number of acres under the control of the permittee that were used for land application in the previous year.
6. Manure distribution and utilization records.
7. Summary of the number of discharges from the production area for the past year, including date, time and approximate volumes.
8. Information on any non-compliance not previously reported to Ohio EPA. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
9. A statement indicating if the MMP was developed by a certified manure management planner.
10. A copy of the training/seminar attendance documentation required by the permit.
11. The actual crop(s) planted and actual yield(s) for each field, the actual nitrogen and phosphorus content of the manure, the results of calculations conducted in accordance with Part II, J, 4, of the permit and the amount of manure applied to each field during the previous twelve months.

The NPDES permit includes manure land application requirements in Part VII. These requirements include the development of a total nutrient budget for the operation, determination methods for appropriate manure application rates, record keeping requirements, application restrictions, and application timing restrictions.

The NPDES permit requires specific monitoring and inspection requirements. The following table from Part VII of the permit contains the requirements along with the justification for inclusion of the requirements in the permit.

Table 1. Monitoring and Inspection Requirements

Action	Frequency	Record Keeping Requirements	Justification
Grab samples shall be taken of all discharges from the production area. Clean storm water that has been diverted does not need to be sampled.	Each time they occur	Date and time of sample, results of analysis, and the information required in Part III, 5 and 6.	Best Professional Judgment – To ensure compliance with Part I, A of the permit.
All discharges from the production area and land application area shall be recorded in the operating record.	Each time they occur	Cause, volume, and duration of discharge and any corrective actions needed and the dates those actions were taken.	40 CFR Part 122.42 and 40 CFR Part 412.37 requires these records to be maintained.
Grab samples shall be taken of discharges from land application areas where manure was applied on frozen and/or snow covered ground.	Each time they occur	Date and time of sample, results of analysis, and the information required in Part III, 5 and 6.	Best Professional Judgment – To ensure compliance with Part I, A and Part VII of the permit.
Representative samples of the manure to be land applied shall be taken from each source (e.g. each lagoon, storage tank, or permanent stockpile area must be sampled).	1/year	The information required in Part III, 5 and 6 and Part VII.	40 CFR Part 412.4 and 40 CFR Part 412.37 requires the sampling and records to be maintained.
Representative soil samples of the manure land application fields.	Every 3 years	The information required in Part III, 5 and 6 and Part VII.	40 CFR Part 412.4 and 40 CFR Part 412.37 requires the sampling and records to be maintained.
Monitor operating level of all manure storage or treatment facilities.	1/week	Date and time of observation, manure level in each structure.	40 CFR Part 412.37 requires the inspections and record keeping.
Inspect manure storage or treatment facilities, including devices channeling contaminated storm water to the manure storage or treatment facility for evidence of erosion, leakage, animal damage or discharge.	1/week	Date and time of inspection, structural integrity, vegetation condition, and any corrective actions needed and the dates those actions were taken.	40 CFR Part 412.37 and Best Professional Judgment require the inspections and record keeping.
Inspect storm water diversion devices or runoff diversion structures.	1/week	Date and time of inspection, observations of flow quantity and color, structural integrity (e.g. signs of cracks, sparse or stressed vegetation, erosion, etc.), any corrective actions needed and the dates those actions were taken.	40 CFR Part 412.37 and Best Professional Judgment require the inspections and record keeping.
Inspect drinking and cooling water lines that are located above ground, readily visible or accessible for daily inspection.	Daily	Date and time of inspection, number of leaks, any corrective actions needed and the dates those actions were taken.	40 CFR Part 412.37 requires the inspections and record keeping.
Monitor forecast at the CAFO location.	Every land application event	Date, weather conditions (including percentage chance of rain) 24 hours prior to application, at the time of application, and 24 hours after application.	40 CFR Part 412.37 and Best Professional Judgment require the monitoring and record keeping.
Inspect land application fields.	In accordance with MMP	Date and signs of discharge or runoff into surface waters and/or conduits to surface waters of the State.	Best Professional Judgment requires the monitoring and record keeping to document compliance with 40 CFR Part 412.4.
Inspect land application equipment.	In accordance with MMP	List of equipment, date of inspections, corrective actions, calibration dates.	40 CFR Part 412.4 and Best Professional Judgment require the inspections and record keeping.



Figure 1. Location of Midwest Poultry Services, L.P. Sunny Side Farms

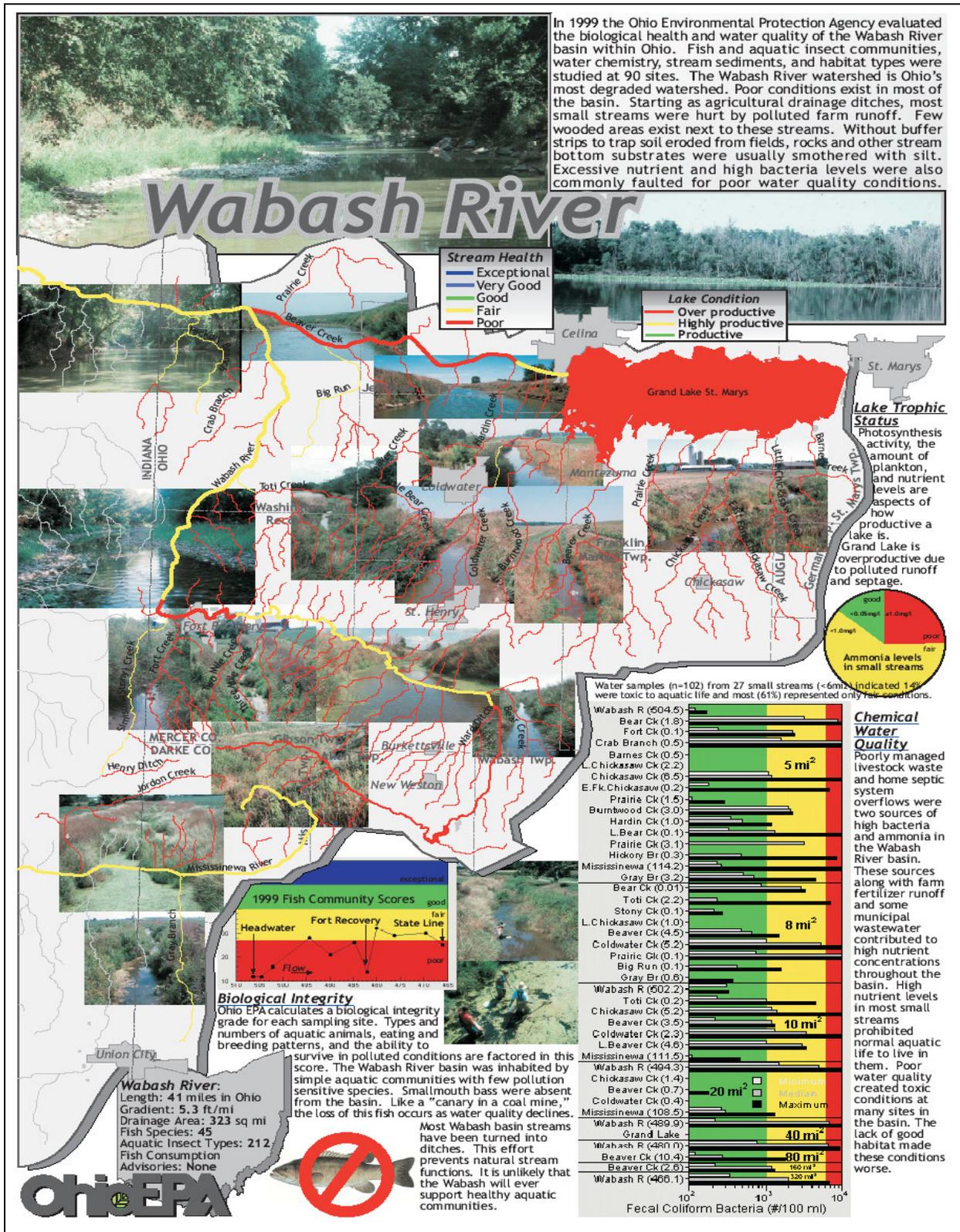


Figure 2. Graphic of Wabash River Watershed

Table 2. Monitoring requirements for Midwest Poultry Services, L.P. Sunny Side Farms outfall 1IK00003901 (Unnamed Tributary of Henry Ditch) and the basis for their recommendation.

Parameter		<u>Effluent Limits</u>				Justification
		Concentration		Loading (kg/day)		
		30 Day	Daily	30 Day	Daily	
Precipitation	inches	-----	Monitor <sup>b</sup>	-----		RP <sup>a</sup>
BOD <sub>5</sub>	mg/l	-----	Monitor	-----		RP
TSS	mg/l	-----	Monitor	-----		RP
Ammonia-N (NH <sub>3</sub> -N)	mg/l	-----	Monitor	-----		RP
TKN	mg/l	-----	Monitor	-----		RP
Phosphorus, Total (P)	mg/l	-----	Monitor	-----		RP

<sup>a</sup>Definitions: RP = Reasonable Potential for requiring water quality-based effluent limits and monitoring requirements in NPDES permits (3745-33-07(A))

<sup>b</sup>Monitoring of precipitation and other indicator parameters is specified to assist in the evaluation of effluent quality, frequency, and facility performance.