



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

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www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

April 14, 2008

CERTIFIED MAIL

Mr. Frank van Genugten
Stardust Dairy
14997 Charleston-Chillicothe Road
South Solon, OH 43153

Re: Notice of Violation and Request for Records

Dear Mr. van Genugten:

This letter is a follow up to the visit that Jon Bernstein and Dan Gill, Ohio EPA Division of Surface Water, made to your farm on Monday, April 7, 2008. Kirk Kiefer, Ohio Department of Natural Resources, Division of Wildlife, was also present during the investigation. The visit was in response to a fish kill that was reported in the East Fork of Paint Creek. Division of Wildlife officers Roy Rucker, Tony Zirkel, and Roger Niese also conducted a fish kill count as part of the investigation. At the time of the visit, it was determined that multiple violations of the CAFO NPDES permit and ODA permit-to-operate had occurred and led to the fish kill in East Fork of Paint Creek.

According to your statement, you called custom applicator Joe Beam on March 30, 2008 because your lagoon was full. Mr. Beam was able to come out to your facility on April 1, 2008 and pumped approximately 300,000 gallons of manure and stormwater from your contaminated stormwater pond. He applied the 300,000 gallons to the surface of a 30 acre field next to your facility. The field was saturated at the time and there was rain forecast for April 2, 2008. You stated that the weather forecast was not checked prior to land application. Also, you did not perform a tile check after land application and you did not know if Mr. Beam performed a tile check.

Jon, Dan, And Kirk walked the unnamed tributary of East Fork Paint Creek which bordered the field used for the land application of manure. They eventually discovered an area with foam and discolored water which smelled of manure. Based upon data from the fish kill count, this unnamed tributary was the source which led to the fish kill. Based upon the fact that the manure was surface applied and was not incorporated, the manure was likely washed from the field into the waterway during the rains on April 2, 2008 and April 3, 2008.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

April 14, 2008

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This is not a complete list of violations or problems. A more detailed letter will soon follow that outlines the exact permit and rule violations. At this time, you need to immediately take the following actions:

- Provide all land application records dating back to November 1, 2007. This includes any documents provided to you by the custom manure applicator, weather forecasts, application rates, acres applied to, and any other information related to the land application of manure from your facility.
- Stop land applying manure on ground that is saturated and do not apply manure during rain or runoff events. Also, land application of manure shall not occur if the forecast contains a greater than 50% chance of precipitation for any individual hour, for a period extending 24 hours after the commencement of land application.

Please provide the requested land application records within **14 days** of receipt of this letter. The land application records should be submitted to my attention at the following address:

Ohio EPA, Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

Should you have any questions and/or concerns, please contact me at 614-644-2021 or via email at cathy.alexander@epa.state.oh.us.

Sincerely,



Cathy Alexander, Supervisor
PTI, Compliance Assistance & CAFO Unit
Division of Surface Water

cc: Kevin Elder, ODA-LEPP
Kirk Kiefer, ODNR, Division of Wildlife
Harry Kallipolitis, OEPA, Central District Office