



Environmental
Protection Agency

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

June 3, 2011

Clark County
11K00007*AD

CERTIFIED MAIL

Eastwood Dairy, LLC
Dirk Winkel
9235 Wildman Road
South Charleston, OH 45368

Re: **Notice of Violation, May 2011**

Dear Mr. Winkel,

This letter documents violations of your Concentrated Animal Feeding Operation (CAFO) National Pollutant Discharge Elimination System (NPDES) permit which have been documented by Ohio EPA.

This Office was contacted by Joe Reidy (representing Eastwood Dairy) on May 3, 2011, in order to explore the option of discharging water from the contaminated storm water pond at Eastwood Dairy. The reason for the request was that the manure lagoon and contaminated storm water pond were quickly approaching maximum capacity and could overflow if material was not quickly removed from the structures.

A site visit was conducted at Eastwood Dairy by Jon Bernstein (Ohio EPA, Division of Surface Water) and Christine Pence (Ohio Department of Agriculture, Livestock Environmental Permitting Program) on May 4, 2011. The contaminated storm water pond was viewed and was within several inches of overflowing. The manure lagoon was also viewed and had exceeded the maximum operating level with approximately one foot of storage remaining. A small spill of manure was also observed on the south side of the manure lagoon where a hose may have come loose and sprayed manure in a clean water area of the dairy.

Results of a sample collected on May 3, 2011, from the clean storm water retention area of Eastwood Dairy were submitted to Ohio EPA around May 16, 2011. The sampling is required by Eastwood Dairy's CAFO NPDES permit. The results of this sample are displayed below in Table 1.

Table 1. Water quality sample results from clean water area.

Parameter	Result	Units
BOD ₅	206	mg/L
Ammonia	18.6	mg/L
Total Phosphorus	4.95	mg/L

The concentration of ammonia within the sample collected from the clean storm water retention area was 18.6 mg/L. While the water quality standard for ammonia usually depends on temperature and pH, any instream ammonia concentration above 13 mg/L, regardless of temperature and pH conditions, is considered to be acutely toxic to aquatic wildlife.

A site visit had been conducted at Eastwood Dairy on July 29, 2010 where heavy contamination of the clean storm water retention area was observed. A pump malfunction had caused milk parlor wastewater to flow to a clean storm water ditch and subsequently to the retention area. It was requested that the tile outlet from the retention area be blocked and that the contents of the pond be removed and land-applied or taken to a manure storage structure. It is my understanding that the retention area had been scraped out subsequent to this visit with the contents piled near the retention area. See Figure 3. One possibility for the heavy contamination of the retention area is that drainage from the pile is entering the retention basin.

Please be aware that you have violated the following conditions of your CAFO NPDES permit:

Part I,A,1,a.

Beginning on the effective date of this permit, there shall be no discharge of manure pollutants from the production area to waters of the State. The production area shall be properly designed, constructed, operated, and maintained to contain manure, direct precipitation, and the runoff from a 100-year, 24-hour storm event and the production area shall be operated in compliance with the additional measures and records required in Part II and Part VII.

Part I,A,1,c.

Storm water associated with industrial activity can be discharged in accordance with this permit as long as good housekeeping practices are conducted to ensure that the storm water is not contaminated by manure, animal feed, etc. See Part I, B for monitoring requirements.

Part II, B.

The discharge of manure or other wastes to waters of the State as defined in ORC 6111.01 and which include surface waters, wetlands (not including constructed treatment wetlands), and ditches is prohibited except in compliance with this permit.

Part II, C.

Spill prevention and good housekeeping techniques, along with diversion of clean water, shall be used to ensure that uncontained storm water from the production area is not contaminated by manure and to ensure that storm water discharges from the following areas maintain compliance with Ohio Water Quality Standards in the receiving water of the State: immediate access roads and rail lines used or traveled by carriers or raw materials, products, waste material, or by-products used or created by the CAFO; refuse sites; sites used for the storage and maintenance of material handling

equipment; and shipping and receiving areas. Storm water that is contaminated by manure or raw material (such as silage) is process wastewater, which is included in the definition of manure in Part I, A, 4 and may only be discharged in accordance with Part I, A of this permit.

Part II, D.

Eastwood Dairy LLC shall maintain the manure storage or treatment facilities (including regular solids removal) to ensure that the design storage volume is provided, as approved by Ohio EPA or ODA or necessary to achieve compliance with this permit, whichever is greater. See Part VII.

Part II, E.

For all open manure storage or treatment structures, a minimum freeboard of one foot must be maintained at all times. This is in addition to the capacity needed to contain direct precipitation and runoff from the 100-year, 24-hour storm. These structures must be equipped with a depth marker which clearly indicates the minimum capacity to contain the runoff and precipitation of the 100-year, 24-hour storm event. If this freeboard is violated, Eastwood Dairy LLC shall notify Ohio EPA, Division of Surface Water, Central Office and immediately begin investigating removal options. See Part VII, Production Area Requirements.

Part II, I.

The permittee shall be responsible for proper operation and maintenance of the manure storage, treatment, or disposal system.

Part II, N.

The manure handling equipment shall be effectively maintained and operated at all times so that there is no discharge to waters of the State, except in compliance with Part I, A. In the event that the equipment fails to perform satisfactorily, including the creation of nuisance conditions or failure of an application area to adequately assimilate the manure, the permittee shall take immediate corrective actions including those actions that may be required by Ohio EPA, such as the acquisition of equipment capable of properly applying manure in the proper approved amounts in accordance with this permit.

Eastwood Dairy has been trucking contaminated storm water to the London, Ohio Waste Water Treatment Plant (WWTP). This was required in order to prevent an overflow of the lagoon and to provide capacity in the lagoon prior to the arrival of suitable land application conditions.

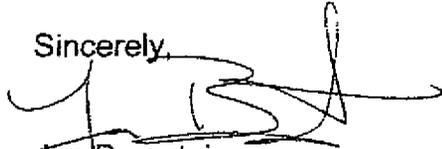
This Office requests that you perform the following actions:

1. Provide Ohio EPA with written confirmation regarding completion of the Emergency Orders issued to Eastwood Dairy by ODA on May 6, 2011.
2. Provide Ohio EPA with the results of the second water quality sample taken from the outlet to the clean storm water retention area as soon as they become available. If nutrient parameters are still elevated, then the outlet must be shut off.
3. Remove the dredged material which is piled near the clean storm water area to an approved manure storage structure. The area where the stockpile is currently located may need to be reseeded.
4. Notify Ohio EPA of future freeboard violations in accordance with CAFO NPDES permit 11K00007*AD, Part II, E.

Please provide a response to these items as soon as possible but no later than 30 days after receipt of this letter.

If you have any questions, comments, or concerns regarding this letter, please contact me at 614-728-2397 or at jon.bernstein@epa.state.oh.us.

Sincerely,



Jon Bernstein
PTI, Compliance Assistance & CAFO Unit
Division of Surface Water

cc: Kevin Elder, ODA-LEPP
Aaron Farmer, Ohio AGO



Figure 1. Contaminated storm water pond at Eastwood Dairy on May 4, 2011.

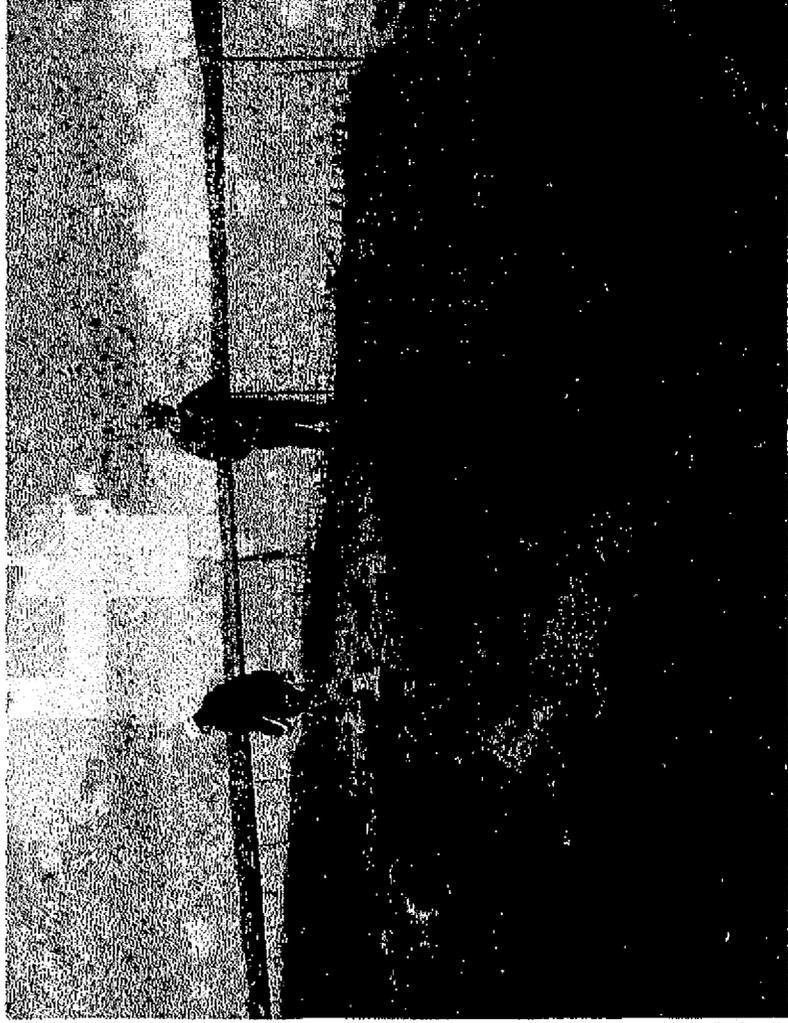


Figure 2. Manure spilled near manure lagoon.

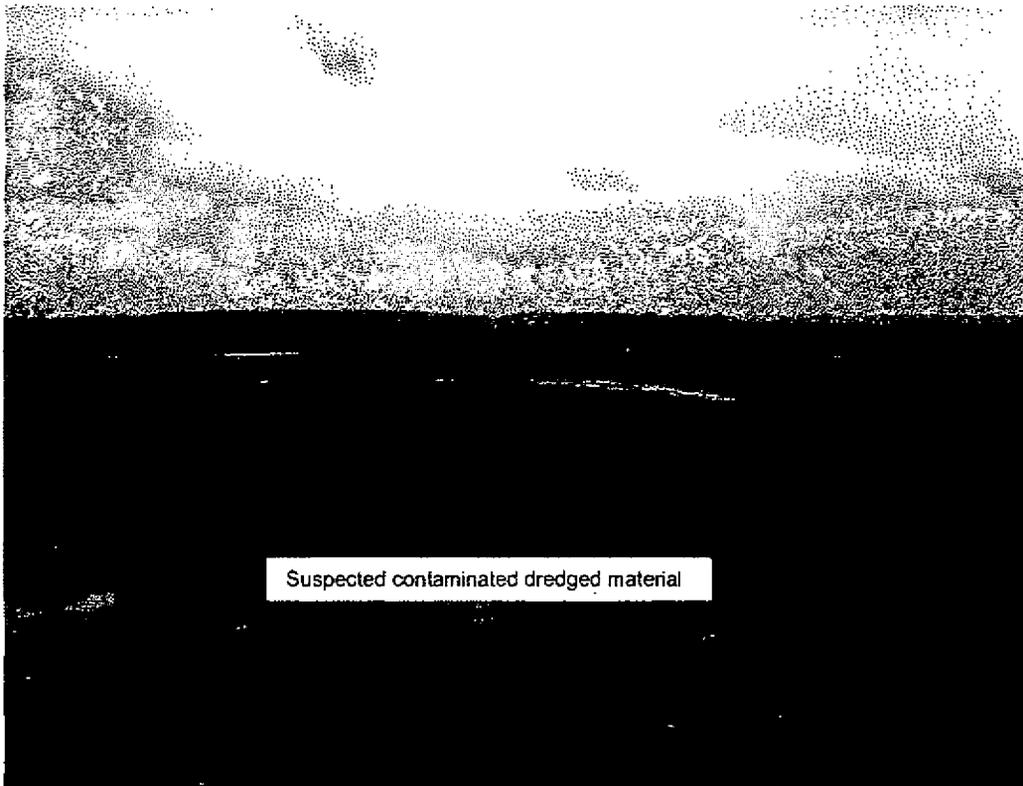


Figure 3. Clean water retention area at Eastwood Dairy.