



State of Ohio Environmental Protection Agency

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June 4, 2008

2IK00037*AD
Van Wert County

CERTIFIED MAIL

Mr. Wallace Armstrong
Blue Stream Farms, LLC
1290 N. Shoop Ave. Suite 140
Wauseon, OH 43567

Re: NPDES Permit Violations

Dear Mr. Armstrong:

This is a follow-up to the letter dated May 5, 2008 that you received from Ohio EPA in response to a manure spill and fish kill in Sponseller Ditch. It was determined by the Ohio EPA and Ohio Department of Natural Resources - Division of Wildlife (ODNR-DOW) that the fish kill was caused by land application of manure from Blue Stream Farms, LLC. The intent of this letter is to apprise you of any violations of your CAFO NPDES permit due to the manure spill and fish kill.

Photographs were taken during the investigation of the fish kill. Figure 1 shows the tile which discharged to Sponseller Ditch. Figure 2 shows manure in Sponseller Ditch at Klinger Road. A sucker wagon was used here during the clean-up. Figure 3 shows manure which was found in Blue Creek at Township Road 33 where a sample was collected. Figure 4 shows all of the water samples collected in response to the manure spill.

The results of the water sample collected from the mixing point in Sponseller Ditch south of Feasby-Wisener Road are shown in Table 1. The results of the water sample collected in Sponseller Ditch at Klinger Road are shown in Table 2. The results of the water sample collected in Blue Creek at Township Road 33 are shown in Table 3.

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

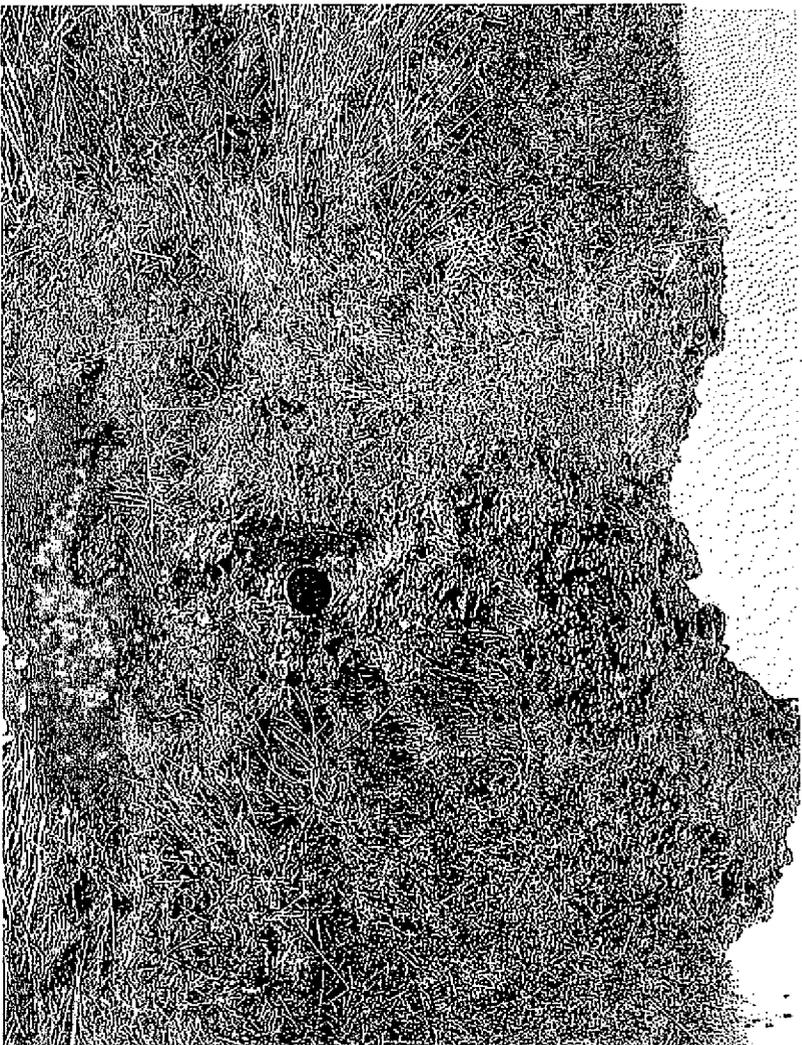


Figure 1. Tile which discharged manure to Sponseller Ditch

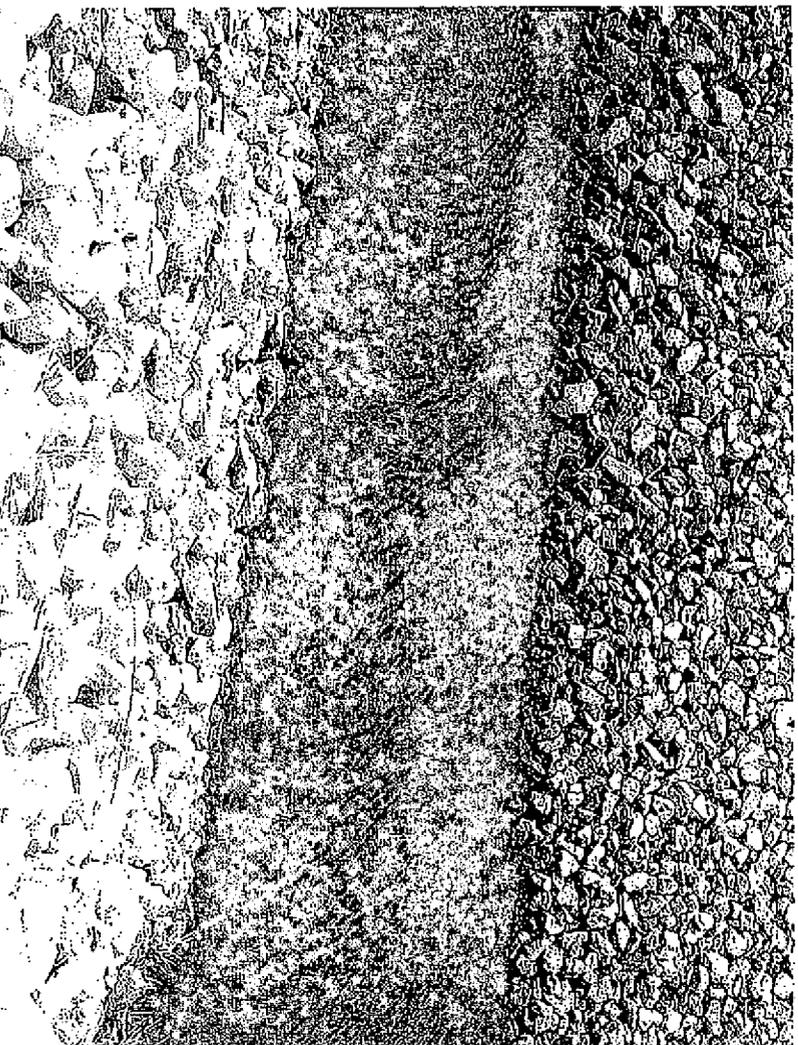


Figure 2. Manure in Sponseller Ditch at Klinger Road

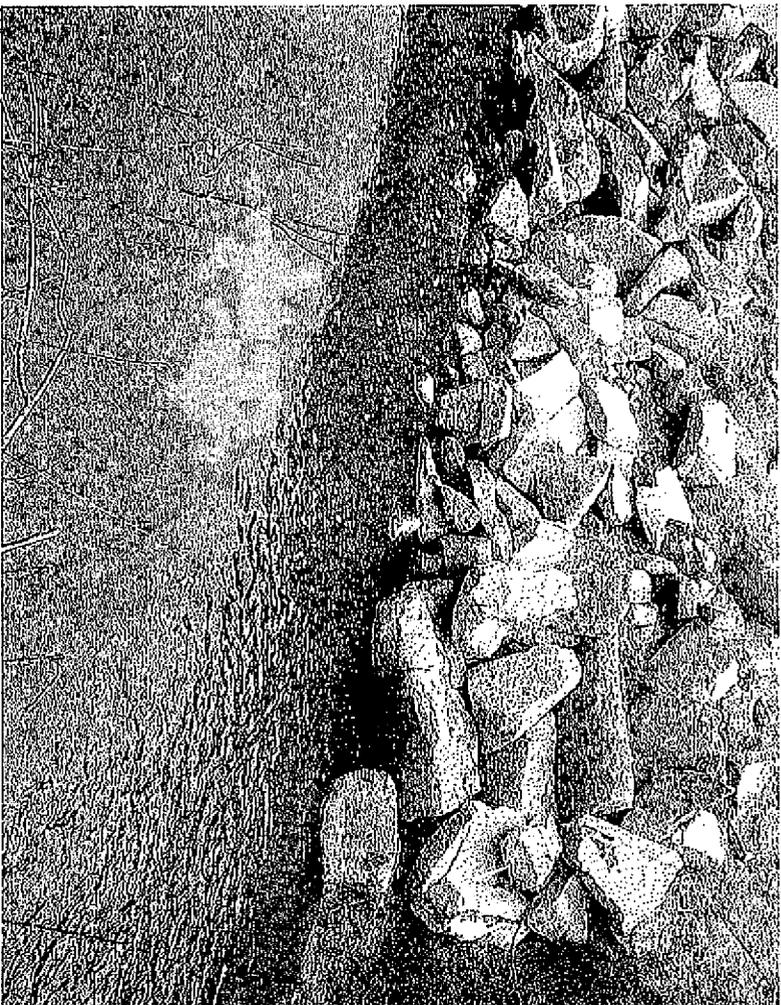


Figure 3. Manure in Blue Creek at Township Road 33



Figure 4. Samples collected in response to manure spill and fish kill

Table 1. Sample results from mixing point south of Feasby-Wisener Road

| Parameter | Result | Units |
|-------------------|--------|-------|
| Ammonia | 4.59 | mg/L |
| Nitrate + Nitrite | 12.9 | mg/L |
| Total Phosphorus | 0.626 | mg/L |

Table 2. Sample results from Sponseller Ditch at Klinger Road

| Parameter | Result | Units |
|-------------------|--------|-------|
| Ammonia | 3.10 | mg/L |
| Nitrate + Nitrite | 0.32 | mg/L |
| Total Phosphorus | 0.591 | mg/L |

Table 1. Sample results from Blue Creek at Township Road 33

| Parameter | Result | Units |
|-------------------|--------|-------|
| BOD ₅ | 36 | mg/L |
| Ammonia | 3.30 | mg/L |
| Nitrate + Nitrite | 1.76 | mg/L |
| Total Phosphorus | 2.75 | mg/L |

The following is a list of NPDES permit conditions that were violated due to the discharge of manure to Sponseller Ditch and Blue Creek. This discharge was attributed to the land application of manure from your facility.

Part I, A, 2, c – discharge of pollutants to waters of the State from land applied manure that has not been applied in accordance with the manure management plan and the NPDES permit

“There shall be no discharge of pollutants to waters of the State from land applied manure except for discharges that are composed of storm water runoff and/or snow melt runoff originating from a land area where manure from a CAFO has been applied in compliance with the manure management plan and this permit.”

Part II, B – discharge of manure to waters of the state not in compliance with the NPDES permit

“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 included constructed treatment wetlands), and ditches is prohibited except in compliance with this permit.”

Part VII, A, 5, c – not keeping records of weather conditions at time of application

“Record Keeping Requirements: At a minimum, the following records must be kept by the permittee: Weather conditions at the time of application and for 24 hours prior to and following application.”

Part VII, B, 6 – failure to comply with NPDES permit for land application under the control of the CAFO

“The permittee is responsible for complying with this permit for land application activities conducted on each site where the permittee, or anyone employed by the permittee, owns, operates, or land applies manure generated from the CAFO or determines timing and amount of manure to be applied on fields not otherwise owned, rented, or leased by the CAFO.”

As a result of the fish kill, Ohio EPA believes that Blue Stream Farms is in violation of the following State regulations:

- 1) Ohio Revised Code 6111.04(A)(1)
No person shall cause pollution or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the State.
- 2) Ohio Administrative Code 3745-1-04(A), (B), and (C)
The following general water quality criteria shall apply to all surface waters of the state including mixing zones. To every extent practical and possible as determined by the Director, these waters shall be:
 - (A) Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life.
 - (B) Free from floating debris, oil, scum and other floating materials entering the waters as a result of human activity in amounts sufficient to be unsightly or cause degradation.
 - (C) Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance.

We appreciate the actions you have taken to correct the issues at Blue Stream Farms, and we request that you take the following additional actions:

- Weather forecasts need to be viewed and printed **before** land application. These records should be kept by you or the custom manure applicator and retained onsite. Websites such as www.weather.com or www.noaa.gov should be used to view the weather forecast ahead of time. These websites both provide the user with the chance of precipitation for any given hour. Remember, land application of manure should not occur if there is a 50% or greater chance of rain for a period extending 24 hours after land application commences.
- If custom manure applicators are used in the future, please make sure that they are aware of the land application restrictions and requirements listed in your NPDES permit. Timing restrictions and setbacks are especially important requirements of the permit which must be followed.
- The records provided to Ohio EPA for the manure application conducted by Kip Edelman of Waste Galore, Inc. from May 5, 2008 through May 7, 2008 appeared to be inadequate. Records of manure application should be detailed enough to provide Ohio EPA with an understanding of the source of manure, amount of manure, location of application, field and weather conditions, and timing of manure application events.
- Please provide Ohio EPA with updates on the development of the Manure Management Plan for Blue Stream Farms as they become available. Also, please provide Ohio EPA with a timeline for completion of the Manure Management Plan.
- Blue Stream Farms (Olsthoom Dairy) is currently under U.S. EPA-issued Administrative Orders. The dairy has been ordered to install permanent containment for process wastewater. In a December 4, 2007 letter to Dave Barna of U.S. EPA Region 5 the design engineers for Blue Stream Farms, Dragun Corporation, stated that Vreba-Hoff Dairy Development is committed to expanding the dairy to approximately 2,500 cows within six months. The letter also stated that a permanent bunker silo and silage leachate collection system is to be installed at that time. Either you or Dragun Corporation should provide Ohio EPA with updates on the status of the dairy expansion and installation of the bunker silo and silage leachate collection system. Please provide Ohio EPA with a timeline for the installation of the bunker silo and silage leachate collection system.

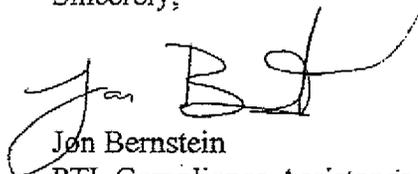
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Please note that further violations of your NPDES permit may lead to enforcement action from this Agency. You should make every effort to ensure that you remain in compliance with the requirements of your permit.

Should you have any questions and/or concerns, please contact me at 614-728-2397 or via email at jon.bernstein@epa.state.oh.us.

Sincerely,



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

cc: Kevin Elder, ODA-LEPP
Matt Germane, Dragun Corporation
Mark Weihrauch, ODNR, Division of Wildlife
Jocelyn Henderson, ODNR, Soil & Water Conservation