



State of Ohio Environmental Protection Agency

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September 27, 2007

CERTIFIED MAIL

Nico Olsthoorn
Olsthoorn Dairy, LLC
3242 Mentzer Church
Convoy, OH 45832

Dear Mr. Olsthoorn

Re: CAFO NPDES – Notice of Violation

On Thursday September 20, 2007, I was present during a U.S. EPA scheduled inspection at Olsthoorn Dairy, LLC. Present at the inspection were the following individuals:

David Barna	U.S. EPA
Anne-Marie Vincent	U.S. EPA
Rick Wilson	Ohio EPA
Nico Olsthoorn	Olsthoorn Dairy, LLC
Chris Rodabaugh	Ohio Dept. of Agriculture-LEPP
Gary Zwolinski, P.E.	Ohio Dept. of Agriculture-LEPP
Matt Germaine, P.E.	Dragun Corporation
Monte Tucker	Vreba-Hoff Dairy Development, LLC

I did not intend to conduct a complete compliance inspection relating to the National Pollutant Discharge Elimination System (NPDES) permit 2IK00037*AD (issued final June 1, 2007) during the U.S. EPA led inspection. However, during the course of the inspection, I learned about and observed several items of non-compliance that must be corrected. This correspondence serves as notice of non-compliance of several items in NPDES permit 2IK00037*AD.

Permit Violation reference and inspection findings:

1) Page 28—NPDES permit 2IK00037*AD

PART VII – Production Area Monitoring and Inspections and Land Application Requirements

General

The permittee shall begin implementation of a manure management plan (MMP) developed in accordance with this permit upon the date in the Compliance Schedule contained in Part I, C. However, the production area requirements below and the land application restrictions in Part VII, B shall be followed beginning on the effective date of this permit.

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

Page 28--- NPDES permit 2IK00037*AD continued:

PRODUCTION AREA REQUIREMENTS

Monitoring/Inspection Requirements

Action	Frequency	Record Keeping Requirements
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. See Part I, A, 1, e.
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 discharges and any corrective actions needed and the dates those actions were taken. See Part I, A, 1, e and Part I, A, 2, d.
On and after April 14, 2007, 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. See Part VII, B, 5.
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. See Part VII, A, 2. (See note below.)
Representative soil samples of the manure land application fields.	Every 3 years	The information required in Part III, 5 and 6. See Part VII, A, 3. (See note below.)
Monitor operating level of all manure storage or treatment facilities.	1/week	Date and time of observation, manure level in each structure. See Part II, E. (See note below.)
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, overflow, 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. (See note below.)
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.
Inspect drinking and cooling water lines that are located above ground, readily visible or accessible for daily inspections.	Daily	Date and time of inspection, number of leaks, any corrective actions needed and the dates those actions were taken.
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. See Part VII, A, 5 and Part VII, B, 2, e.
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.
Inspect land application equipment.	In accordance with MMP	List of equipment, date of inspections, corrective actions, calibration dates. (See note below.)

Findings: At a minimum, you failed to provide records of manure levels in storage basins per the permit condition above: *Monitor operating level of all manure storage or treatment facilities. Monitoring frequency is 1/week, and records are required for date and time of observation and manure level in each structure.*

2) Page 38---NPDES permit 2IK00037*AD and page 33 ---NPDES permit 2IK00037*AD

Page 38:

6. 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.

Findings: You described that you are involved in determining timing of manure application and are therefore liable to keep records of land application in accordance with your permit.

Page 33:

5. Record Keeping Requirements: At a minimum, the following records must be kept by the permittee:

- a. Expected crop yields.
- b. The date(s) manure is applied to each field.
- c. Weather conditions at the time of application and for 24 hours prior to and following application. See Part VII, B, 2, e.
- d. Test methods used to sample and analyze manure and soil.
- e. Results from manure and soil sampling.
- f. Explanation of the basis for determining manure application rates, as provided by Part VII, A, 4.
- g. Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure.
- h. Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied.
- i. The method used to apply the manure.
- j. Date(s) of manure application equipment inspection.

Findings: The records provided during inspection were from a contract applicator, and did not contain all records necessary to meet the provisions listed in your permit.

3) Page 13--NPDES permit 2IK00037*AD

Page 13:

H. Any variation from the operational practices included in this NPDES permit must be authorized by Ohio EPA in advance. Any new construction of manure storage or transfer structures shall be in accordance with applicable NRCS Conservation Practices Standards and/or ODA regulations.

Findings: A basin has been installed for collection and transfer of contaminated production area runoff. This was a requirement of U.S. EPA Orders and the Schedule of Compliance in your permit. The installation of the temporary basin was done in the absence of any notification to this office, nor was any information provided with respect to the design sizing and location of this storage and transfer basin. It was described that this system will be temporary, until such time as proposed expansion (if

Olsthoorn Dairy, LLC

9/26/2007

Page 4 of 4

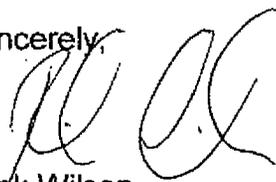
allowed) would allow for permanent production area runoff containment. Keep in mind similar recordkeeping requirements as with the manure storage vessels apply to this basin.

This office hereby requests that you immediately begin to comply with the monitoring and recordkeeping aspects of your NPDES permit. In the absence of an approved Manure Management Plan (MMP), you should make every effort to follow the listed requirements in your permit. This office has provided you with several tools to aid in compliance. It is up to you or employees of your company to meet the monitoring and recordkeeping requirements. Failure to follow the conditions in your permit will result in escalated enforcement by this office.

Several other compliance items were discussed during the inspection. This includes NMP development as required in the permit. Because there are several issues that are currently being worked through (i.e., lack of soil samples until after harvest, proposed expansion and redesign of facility under proposed new management, proposed permit transfer, the rescheduling of Federal requirements for MMP development to from July 2007 to Feb. 2009), we will continue to work with you, your consultants, and Vreba-Hoff representatives to achieve compliance with this item as expeditiously as practical. Absent progress, escalated enforcement will occur.

This office will continue spot follow-up reviews to determine your extent of compliance with your NPDES permit, and especially with the compliance items described in this letter. Please contact this office if you have any questions, comments, or concerns at (614) 644-2032 or via email at rick.wilson@epa.state.oh.us.

Sincerely,



Rick Wilson
PTI and Agricultural Unit
Division of Surface Water

Cc: Monte Tucker, Vreba-Hoff Dairy Development, LLC
Matt Germaine, Dragun Corp.
Chris Rodabaugh, ODA-LEPP
David Barna, U.S. EPA, Region 5