



State of Ohio Environmental Protection Agency

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July 21, 2008

Van Wert County
21K00014*AD

CERTIFIED MAIL

Henk and Helma Arts
Arts Dairy LLC
5624 Elm Sugar Road
Convoy, Ohio 45832

Re: Manure Discharge June 10, 2008, Notice of Violation

Dear Mr. and Mrs. Arts:

On June 10, 2008, I was notified by Ohio Department of Agriculture, Livestock Environmental Permitting Program (ODA, LEPP) inspector Chris Rodabaugh of a complaint that alleged manure was in waters of the State along SR49, just west of your dairy. Mr. Rodabaugh investigated the complaint and documented a manure impacted tributary resulting from runoff of land application of manure. I met with you on June 19, 2008 to discuss the event. The following letter outlines violations of your Concentrated Animal Feeding Operation (CAFO) National Pollutant Discharge Elimination System (NPDES) permit and required corrective actions as a result of this incident.

According to the attached report prepared by Mr. Rodabaugh and discussions with you, manure was land applied on June 9, 2008 by Weaver Custom Harvesting. Mr. Henk Arts asked Weaver Custom Harvesting to apply the manure to the field prior to planting corn. Approximately 400,000 gallons of manure was applied to approximately 80 acres located on the east side of State Route 49 at the intersection of Feasby Wisener Road. Mrs. Helma Arts indicated she was not aware that manure was going to be applied, and therefore the weather forecast was not monitored. Mrs. Arts maintains the manure application records including the weather forecasts. According to records from NOAA.gov, Convoy, Ohio had a forecast rainfall of 0.74 at a 60% chance from 8:00 p.m. June 9 through 7:00 a.m. on June 10, 2008. Weaver Custom Harvesting indicated that the area received a total of 0.7 inches of rain on June 9, 2008.

The application field was inspected by Weaver Custom Harvesting early on June 10, 2008 and runoff was not noted by that individual at that time. According to information gathered during investigation, high water levels in the roadside tributary were such that the tributary water level was the same as the field surface drain elevation. Basic concepts of hydrology (i.e., water flows downhill) were not considered, and therefore no effort was taken at that time to minimize runoff of manure laden material from the field, nor was there communication between Weaver Custom Harvesting and Arts Dairy, LLC of the likelihood of manure discharge. Due to ineffective monitoring and lack of communication between parties the manure discharge was not reported to either Ohio EPA or ODA.

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