



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

June 22, 2010

Van Wert County
2IK00014*AD

CERTIFIED MAIL

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

Re: Notice of Violation, Lack of Freeboard at Arts Dairy

Dear Mr. and Mrs. Arts:

This correspondence is being sent to you as an official notice to describe violations of Concentrated Animal Feeding Operation (CAFO) National Pollutant Discharge Elimination System (NPDES) permit 2IK00014*AD resulting from failure to maintain adequate freeboard in three manure storage lagoons at the Arts Dairy facility.

Ohio Department of Agriculture (ODA), Livestock Environmental Permitting Program (LEPP) inspector Chris Rodabaugh conducted an inspection of the Arts Dairy facility on June 10, 2010. During his inspection, Mr. Rodabaugh noted that three manure storage lagoons at Arts Dairy were above freeboard. Maintenance of adequate freeboard is required by both your ODA permit-to-operate and your Ohio EPA NPDES permit. Please see below for the condition from your NPDES permit that was violated.

Violation of Permit 2IK00014*AD:

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, Arts Dairy LLC shall immediately begin investigating removal options. See Part VII, Production Area Requirements.

Please provide Ohio EPA with a written report describing long-term plans for management of manure at Arts Dairy. Information has been provided to this office which demonstrates that a sizable amount of manure has been removed from Arts Dairy and that manure lagoons have been brought below critical levels. It is my understanding that cows from Arts Dairy will soon be moved offsite. Please note that the NPDES permit will remain in effect until the facility is properly closed or until there is

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

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no longer a potential for discharge of manure from the dairy. See Part II, M. of NPDES permit number 2IK00014*AD below:

Part II, M. In the event this facility is closed for production purposes, or is no longer a CAFO, this permit shall remain effective until the permittee demonstrates to the satisfaction of the Director that there is no remaining potential for a discharge of manure that was generated while the operation was a CAFO, other than agricultural storm water from land application areas. All manure shall be properly disposed of, and in the case of facility closure, the manure storage or treatment facilities shall be properly closed.

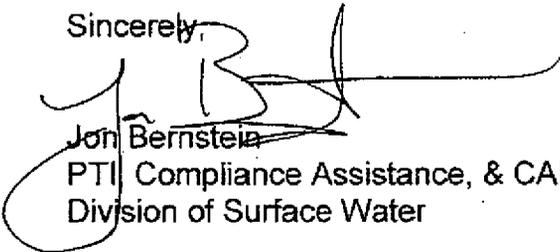
Ohio EPA expects that Arts Dairy will explore all options necessary to comply with its CAFO NPDES permit. Such options may include acquiring additional acreage for manure application or removing manure through distribution and utilization. Continued freeboard violations are unacceptable and may lead to escalated enforcement action by Ohio EPA.

The written report describing long-term plans for manure management at Arts Dairy may be submitted to the following address:

Ohio EPA, Division of Surface Water
Attn: Jon Bernstein
P.O. Box 1049
Columbus, OH 43216-1049

Please submit the written report within **21 days** of receipt of this letter. Should you have any questions or concerns regarding this letter, feel free to contact me at (614) 728-2397 or at jon.bernstein@epa.ohio.gov.

Sincerely,



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

cc: Kevin Elder, ODA-LEPP
Timothy McNamara, Agstar Financial
Liz Lynch, Development Specialists