



State of Ohio Environ



STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

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

July 31, 2008

Mr. Mark Wilson
Land Stewards, LLC
1122 Somerlot-Hoffman Rd. E
Marion, Ohio 43302

Re: Hord Livestock – Bucyrus, Ohio - Compliance Status

Mr. Wilson:

Ohio EPA has reviewed your electronic correspondence, on behalf of Mr. Duane Hord, President of Hord Livestock Company (Hord Livestock), requesting that Ohio EPA clarify issues raised in the July 16, 2008 Notice of Violation issued to Hord Livestock for illegal discharge of industrial wastes into a Class V injection well.

Ohio EPA's Underground Injection Control (UIC) Unit is aware that Hord Livestock did receive a Permit to Install (PTI) from Ohio EPA's Division of Surface Water (DSW). Please be aware that the PTI, dated April 25, 2000 included a general condition stating that the issuance of the PTI did not relieve Hord Livestock of the duty of complying with all applicable federal, state, and local laws, ordinances, and regulations. The Ohio and federal underground injection control requirements are applicable to the disposal system that Hord Livestock is operating.

The applicable state law cited in the July 16, 2008 Notice of Violation was Ohio Administrative Code (OAC) Rule 3745-34-13 which prohibits the operation of a Class V Industrial Waste injection well without a permit to operate.

In your email correspondence you ask the following questions:

"Why does your letter completely disregard the fact that Ohio EPA, DSW not only approved, but also dictated the design of this wastewater treatment system?"

As stated above, the UIC unit is not disregarding the PTI previously issued, but is enforcing other applicable requirements. The PTI issued by the DSW Water does not constitute approval to discharge industrial or other wastes into or above an underground

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source of drinking water. A valid permit to operate issued under OAC Rule 3745-34-16 is needed to meet this applicable requirement.

"Why do you seek a non-refundable application fee of \$2,000 for a Class V Industrial Waste UIC Permit to Operate, when in fact Hord Livestock already has permission to operate the system from Ohio EPA, DSW?"

As stated above, Hord Livestock must obtain a valid permit to operate in order to continue discharging industrial waste to their septic system. OAC Rule 3745-34-16(H)(1) states: "An application for an injection well permit to operate shall be accompanied by a non-refundable fee of two thousand dollars."

"Given that Ohio EPA, DSW has authorized the design and operation of this system and it has operated without incident for over 8 years, why do you rush to require total cessation of this system and propose other alternative systems?"

The UIC just recently learned per the inventory form submitted by Hord Livestock that the illegal injection appears to have occurred over the last 8+ years. Ohio EPA does not intend, at this time, to seek any penalties or additional enforcement action for the years of illegal injection activity, but rather Ohio EPA hopes that Hord Livestock Company will cooperate in returning to compliance as soon as possible. The "rush" to require total cessation of illegal injection is because Ohio EPA strives to ensure environmental compliance. Again, injection may resume upon the issuance of a Class V UIC permit to operate.

"Please assemble the specific citations from OAC 3745-34 in a logical manner which fully supports your statement of a violation on the part of Hord Livestock."

OAC Rule 3745-34-01(OOO) defines "subsurface fluid distribution system". Hord Livestock's leach field meets the definition of a subsurface fluid distribution system;

OAC Rule 3745-34-01(WWW)(4) defines in part "well" as a subsurface fluid distribution system;

OAC Rule 3745-34-01(NN) defines "injection well". Hord Livestock's leach field as a subsurface distribution system and a well meets the definition of an injection well;

OAC Rule 3745-34-04(E) defines a Class V injection well. The septic system Hord Livestock uses to inject the truck wash waste meets this definition of a Class V well;

OAC Rule 3745-34-13(A)(3) requires a permit to operate for any Class V injection well used to dispose of an "industrial waste" or "other waste"; and

OAC Rule 3745-34-01(LL) and OAC Rule 3745-34-01(UU) provide the legal definitions of "industrial waste" and "other waste". Truck wash water meets the definition of both terms.

Based on the rules cited above, Hord Livestock is operating a Class V injection well that is disposing of an industrial or other waste. Due to this, an underground injection control permit to operate is required for continued operation of the Class V well at the Hord Livestock location.

In conclusion, Hord Livestock's septic system that receives truck wash water is a Class V injection well that is being used to discharge an industrial or other waste into an underground source of drinking water. Hord Livestock does not have an underground injection control permit to operate to inject this industrial fluid into this Class V well. As such, Hord Livestock is in violation of the underground injection control rules listed above and shall remain so as long as the un-permitted discharge continues.

Within thirty (30) days of receipt of this notice, Hord Livestock shall submit a complete permit to operate application per OAC Rule 3745-34-16 or a formal plan to cease injection of the industrial waste fluids into or above an underground source of drinking water. In the meantime, any un-authorized injection will be subject to enforcement action.

Should you have any questions regarding this correspondence, please contact me or Jess Stottsberry of my staff.

Sincerely,



Lindsay C. Taliaferro III, UIC Manager
Division of Drinking and Ground Waters

cc: Michael G. Baker, Chief, DDAGW
Shannon Nabors, Chief, NWDO
Tom Allen, Assistant Chief, DDAGW
Elizabeth Messer, Compliance Assurance Mgr.
Kimberly Rhoads, Legal
Tim Fishbaugh – Ground Water Mgr., NWDO
Valerie Orr, UIC Class V Coordinator, DDAGW
Jess Stottsberry, UIC Unit, DDAGW
Michelle Sharp, DSW, NWDO
Duane Hord, Hord Livestock Company