



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
JACKSON DISTRICT OFFICE



DAN WYANT
DIRECTOR

November 6, 2014

CERTIFIED MAIL

Mr. Arno Schot, Vice President
New Flevo Dairy, Incorporated
9717 Forrister Road
Adrian, Michigan 49221

SVN No. SVN-000498

Dear Mr. Schot:

SUBJECT: Second Violation Notice

Department of Environmental Quality (DEQ), Water Resources Division (WRD), staff inspected the New Flevo Dairy-CAFO, located at 9717 Forrister Road, Adrian, Michigan 49221 on October 27, 2014 and October 30, 2014, to determine compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and National Pollutant Discharge Elimination System (NPDES) Permit No. MI0058102 issued on January 15, 2010.

On October 27, 2014, WRD staff observed the unlawful discharge of silage leachate to Hazen Creek. At the time of our inspection silage leachate was actively entering Hazen Creek as a dry weather discharge from a field tile. During inspection at the New Flevo Dairy WRD staff observed ponded silage leachate in a clean water drainage ditch running south along the leachate pit and leachate was actively entering a tile inlet; silage leachate had entered this clean water drainage ditch via an open "overflow" pipe in the leachate collection area. The tile inlet was confirmed by the producer as being directly connected to the pipe discharging silage leachate into Hazen Creek. As a result of this discharge, the receiving water contained unnatural color, foam, and microbial growth, which is a violation of NPDES Permit No. MI0058102.

The following issues were identified and discussed during the site inspection and interview:

1. This was a dry weather discharge, with silage leachate exiting the leachate collection area through an open "overflow" pipe leading to a clean water drainage ditch and eventually entering a field tile inlet. Dry weather discharges that violate Water Quality Standards are prohibited under Part I.A.3 of the facility's permit.
2. The farm was not properly collecting all concentrated animal feeding operation (CAFO) waste and this led to a direct discharge of CAFO waste from the production area. Direct discharges due to inappropriate production area management that violate Water Quality Standards are in violation of Part I.A.1 and Part I.A.3 of the facility's permit.
3. According to Part I.A.4.a.3, all collection systems on the farm should be inspected at least once each week to ensure they are functioning properly.
4. The "overflow" pipe which allowed silage leachate to discharge to the storm water drain was not permanently closed (as was initially stated by the farm during the inspection on October 27, 2014) and should have no longer been there. This pipe had been recently covered with wasted feed and soil prior to the arrival of WRD staff at the location, and it appeared the farm was aware of the discharge prior to WRD staff notifying them of it. The

flow coming off the silage pad was very low and therefore should not have been entering the "overflow" pipe.

Based on the actions and behavior of the staff at the facility it is apparent that the farm was aware of the circumstances leading to this discharge and upon arrival of WRD staff took measures to stop the discharge. The violation(s) identified in this Violation Notice have ceased, however, additional steps must be taken to ensure that a similar discharge cannot occur again.

The concerns identified in this Notice were previously addressed in a letter dated June 12, 2012. In that letter, WRD staff stated that "Silage leachate was flowing toward the clean storm water drainage. The berm, used to direct the flow, had been removed when some work was done previously, but not put back. This is a management issue, but could be corrected with some changes to the drainage area." You responded to our concerns on June 20, 2012, stating "Feed storage runoff was corrected as of June 19, 2012." Based on our recent inspections, this area still needs changes to ensure future discharges do not occur.

New Flevo Dairy, Incorporated should take immediate action to achieve and maintain compliance with the terms and conditions of Part 31, Water Resources Protection, of the NREPA and NPDES Permit No. MI0058102 issued on January 15, 2010.

Please submit a plan to address this discharge to this office by December 8, 2014. At a minimum, the response shall include:

1. Copies of weekly production area inspection records from September 1, 2014, to present.
2. A completion date or scheduled date of completion to:
 - a. Completely remove the "overflow" pipe to the clean water drainage ditch in the silage leachate collection area.
 - b. Fill in or re-grade the ditch from the overflow pipe to the main north-south drive at the southeast corner of the leachate storage.
 - c. Remove the pipe from the silage pad collection area to the leachate storage and install a concrete lined conveyance to the storage to ensure adequate capacity for all rain events.
 - d. Install a shut-off valve on the tile line where the discharge originated after the last of three tile risers near the southeast corner of the Big Lagoon.
 - e. Update the facility's CNMP to show all clean water conveyances and any outlets associated with these clean water systems. All areas of the production area should be addressed including the heifer barn area near Forrister Road.
3. Collect and land apply the silage leachate material remaining in the clean water drainage area between the silage pad and the second tile riser. All material (including solids and liquids) from this cleaning task shall be collected and properly land applied or stored as required for CAFO waste.

If you have any factual information you would like us to consider regarding the violations identified in this Notice, please provide them with your written response.

Compliance with the terms of this Notice does not relieve New Flevo Dairy, Incorporated of any liability, past or present, from the failure to meet the conditions specified in NPDES Permit No. MI0058102, or failure to comply with the permit or Part 31, Water Resources Protection, of the NREPA.

Mr. Arno Schot

New Flevo Dairy, Incorporated

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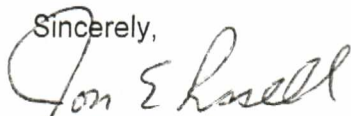
November 6, 2014

The DEQ reserves its right to take all necessary and appropriate enforcement actions for all violations observed to date and any violations that occur in the future. This may include civil action seeking fines, enforcement costs and injunctive relief, and potential criminal prosecution.

Due to the severity of the noncompliance, the matter is being evaluated for escalated enforcement.

We anticipate and appreciate your cooperation in resolving this matter. Should you require further information regarding this Notice or if you would like to arrange a meeting to discuss it, please contact Ms. Rachel Koleda, Environmental Quality Analyst, Water Resources Division, Jackson District Office, at 517-780-7917; koledar@michigan.gov; or DEQ, WRD, Jackson District Office, 301 East Louis Glick Highway, Jackson, Michigan 49201-1556.

Sincerely,



Jon E. Russell
Jackson District Supervisor
Water Resources Division
517-780-7847

CC: file: New Flevo Dairy-CAFO, MI0058102, Lenawee County