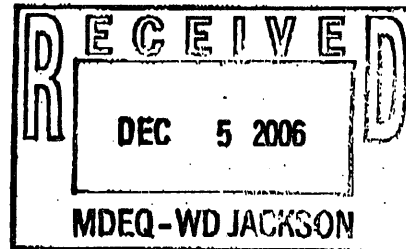


STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERALMIKE COX
ATTORNEY GENERALP O. Box 30755
LANSING, MICHIGAN 48909

December 1, 2006

Stephen Vander Hoff
Vreba-Hoff Dairy LLC
8502 South Meridian Road
Hudson, MI 49247

Dear Mr. Vander Hoff:

The Department of Attorney General (DAG) has been advised by our client, the Department of Environmental Quality (DEQ), that your management of the Concentrated Animal Feeding Operation (CAFO) waste generated at your two dairies, Vreba-Hoff I and Vreba-Hoff II, has deteriorated substantially over the last several months. In particular, DEQ, Water Bureau (WB) staff have informed me of several violations of the Consent Judgment entered between the DEQ and Vreba-Hoff Dairy LLC (Vreba-Hoff) in December 2004.

The enclosed list of violations and concerns prepared by the WB is disconcerting and evinces an immediate need for Vreba-Hoff to undertake corrective actions to restore compliance with the Consent Judgment.

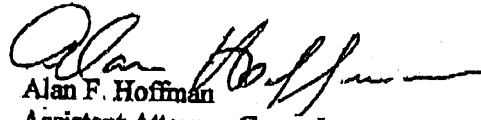
In an attempt to avoid a formal enforcement action, I suggest that Vreba-Hoff representatives meet with me and the WB to discuss the resolution of the numerous violations at both of your farms. Particular emphasis in the meeting should be on the apparent failures of the Press Treatment System and resulting accumulation of excessive amounts of CAFO waste, treated and untreated, in various storage structures. With the December 15, 2006, deadline for the cessation of all land application for this winter quickly approaching, I recommend that this meeting take place as soon as possible. I also recommend that Vreba-Hoff come prepared to present to myself and the WB a plan for effectively managing CAFO waste in accordance with the terms of the Consent Judgment and correcting the many violations already documented at your farms.

I further request that you bring one complete copy of the following records maintained by Vreba-Hoff pursuant to the Consent Judgment to the meeting: (1) Land Application Inspection and Evaluation Logs from December 2004 to present, along with any additional inspection reports or checklists; (2) the current Comprehensive Nutrient Management Plan for each farm; and (3) the current Storm Water Pollution Prevention Plans for each farm. If either of the following exists, please also bring a copy of manufacturer's specifications for the aeration system installed as part of the Enhanced Wastewater Treatment System and the complete Operations and Maintenance guide that should have been submitted by October 1, 2005, in accordance with Section IX.C.

Stephen Vander Hoff
Vreba-Hoff Dairy LLC
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Please contact Ms. Nicole Zacharda, Enforcement Specialist, Enforcement Unit, WB, at 517-373-2038, to arrange a time to meet at the DEQ's Lansing headquarters. Questions regarding the meeting or the enclosed list of violations and concerns may be directed to Ms. Zacharda or you may contact me. Please note that the enclosed list of violations only includes those violations presently known to WB staff.

Sincerely,



Alan F. Hoffman
Assistant Attorney General
Environment, Natural Resources
and Agriculture Division
(517) 373-7540

AFH/bat
Enc.

c/enc: Charles R. Bappert, Esq.
Richard A. Powers, DEQ
Jon Russell, DEQ
Nicole Zacharda, DEQ

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Consent Judgment Violations & Concerns

Documented Violations

Unlawful Discharges

- WB staff documented an Unlawful Discharge from a field receiving agricultural waste from the Dairy Operation on November 25, 2006. Notice of this violation is also being provided by a separate enforcement letter.

Press Treatment System

- While an Operations and Maintenance Guide was timely submitted in accordance with Section IX.C. of the Judgment, it fails to contain all the information required and moreover, is not specific to the operation of the specific system installed at Vreba-Hoff I.
- The approved Final Work Plan for Wastewater Treatment and Composting indicates at 5.1, paragraph 4 that sand used for bedding will be separated from manure through the installation of a Sand Manure Separation device similar to those produced by McLanahan Corporation. The approved workplan is an enforceable component of the Judgment in accordance with Section XV. B., and since sand is still being used for bedding, a Sand Manure Separation device should have been but was not installed with separated manure treated in the Press Treatment System as specified in the approved workplan.

Compost Pads

- Also related to the continued use of sand as a bedding material, manure-laden sand is being stored on the compost pads at both Vreba-Hoff I and II. This is not acceptable and is a violation of the Judgment and the approved Final Work Plan for Wastewater Treatment and Composting. Neither the untreated manure entrained with the sand nor the sand itself (as an inorganic material) are approved for placement on the composting pads.
- Runoff from the compost pads is now contaminated with untreated manure and must be processed through the Press Treatment System. Note that "bedded pack manure" within the Enhanced Wastewater Treatment definition at Section IV.M of the Judgment does not include sand, as further detailed in the approved Final Work Plan for Wastewater Treatment and Composting at Section 8.0.

Waste Storage Structures

- Repeated violations of the freeboard requirements set forth in Section VIII.I of the Judgment in various storage structures at both Vreba-Hoff I and II have occurred and continue to occur irrespective of weather patterns.
- Fixed markers reflecting the 12 inch freeboard and 25-year/24-hour storm volumes have not been installed on all storage structures, also in violation of Section VIII.I.

Storm Water Management

- Vreba-Hoff has failed to comply with numerous deadlines set forth in implementation schedules contained within the approved Storm Water Pollution Prevention Plans (SWPPPs) for both Vreba-Hoff I and II.
- Additional non-compliance with the approved SWPPPs includes the lack of maintenance of installed storm water controls, poor housekeeping, and general co-mingling of contaminated and uncontaminated storm water.
- Dye-testing was to be conducted at Vreba-Hoff I to ensure that all conduits within the Production Area are connected to proper containment areas and that conveyance dedicated to the transport of clean storm water are free of contamination from manure of other polluting materials. While dye-testing was conducted at Vreba-Hoff I, that testing did not include all conduits as specified in Section VII.B. of the Judgment.

Recordkeeping & Reporting

- On at least one occasion, tile lines were not inspected in accordance with Section VIII.E.5 resulting in the November 25, 2006, discharge event that was not reported as required by Section X.A.2 of the Judgment.
- Other violations mentioned above, including freeboard violations, have also gone unreported and constitute discrete and separate violations under Section XI.
- Progress Reports are to be submitted monthly in accordance with Section XI.B. The last Progress Report received was for the May 15- June 15, 2006, reporting period.

Water Bureau Concerns

Quality of treated effluent

Sufficiency of sampling regimes

Adequacy of selected aeration system

Expansion of both facilities

Physical deterioration of the silage, leachate reception pit at VH II

Use of fields by both Hoffland and VH

Prepared by:

Nicole Zacharda, WB Enforcement Unit and

Rachel Matthews, WB Jackson District

November 30, 2006

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER BUREAU**

IN THE MATTER OF:

NNC No. NNC-000146

Vreba Hoff Dairy I
7601 Dillon Highway
Hudson, Michigan 49247

NOTICE OF NONCOMPLIANCE

TO: Vreba-Hoff Dairy LLC
8760 South Meridian Road
Hudson, Michigan 49247

ATTENTION: Mr. Stephen Vanderhoff

PLEASE BE ADVISED the Michigan Department of Environmental Quality (MDEQ), Water Bureau (WB) has sufficient information to believe that Vreba-Hoff Dairy LLC has failed to comply with the terms and conditions of Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act 1994 PA 451, (NREPA), as amended, and Consent Judgment of December 2004.

BE ADVISED that, on November 25, 2006, MDEQ, WB staff inspected the application field on the north side of Canandaigua Road just east of Ingall Highway, referred to as Field 44 in your Comprehensive Nutrient Management Plan for Vreba Hoff Dairy I, to determine compliance with the aforementioned Rules and Consent Judgment.

PURSUANT to the terms of Part VIII, Section E, 5, of the Consent Judgment, which states in part: "Tile outlets shall be inspected again upon the completion of the land application to the field or at the end of the working day should application continue on the field for more than one day."

PLEASE BE ADVISED that on November 27, 2006, MDEQ, WB staff met with you regarding the discharge and you had not inspected the tile outlets upon completion of the land application or at the end of the working day. You had only checked the tile outlet after staff called you, during the investigation, with news of the discharge.

PURSUANT to the terms of Part VIII, Section E, 6, of the Consent Judgment, which states in part: "Should an inspection reveal a discharge bearing color, odor, or other unnatural characteristic indicative of an Unlawful Discharge of Agricultural Waste, then

Defendant or its representative shall immediately notify the MDEQ, WB of the suspected Unlawful Discharge."

PLEASE BE ADVISED that on November 25, 2006, the MDEQ, WB was not immediately notified by Vreba Hoff Dairy regarding the discharge.

PURSUANT to the terms of Section 324.3109(1), of Part 31, of the NREPA, which states in part: "A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:

- (a) To public health, safety, and welfare.
- (b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
- (c) To the value or utility of riparian lands.
- (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to the growth, propagation, or the growth or propagation thereof be prevented or injuriously affected; or whereby the value of fish and game is or may be destroyed or impaired."

PLEASE BE ADVISED that on November 25, 2006, MDEQ, WB staff observed the unlawful discharge of wastewater to the Covell County Drain, a tributary to Bean Creek.

PURSUANT to the terms of Section 323.1050, Part 4 Rules, Water Quality Standards, promulgated pursuant to Part 31 of the NREPA, 1999 ACS R 324.4101 *et seq.* (Part 4 Rules), "The surface waters of the state shall not have any of the following physical properties in unnatural quantities which are or may become injurious to any designated use:

- (a) Turbidity
- (b) Color
- (c) Oil films
- (d) Floating solids
- (e) Foams
- (f) Settleable solids
- (g) Suspended solids
- (h) Deposits"

PLEASE BE ADVISED that on November 25, 2006, MDEQ, WB staff observed significant unnatural turbidity, color, floating solids, suspended solids, and deposits in the discharge from Vreba-Hoff's land-applied field to Covell Drain.

PURSUANT to Rule 323.1051(1) of the Part 4 Rules "The addition of any dissolved solids shall not exceed concentrations which are or may become injurious to any designated use. In no instance shall total dissolved solids in the waters of the state exceed a concentration of 750 milligrams per liter at any time, as a result of controllable point sources."

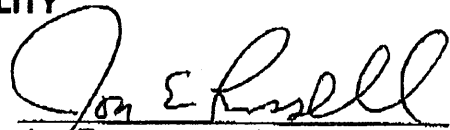
PLEASE BE ADVISED that further enforcement may be initiated for failure to comply with the NREPA, this Notice, or the Consent Judgment.

FURTHER BE ADVISED that compliance with the terms of this Notice does not relieve Vreba Hoff Dairy of any liability, past or present from the failure to meet the conditions specified in the Consent Judgment or failure to comply with the NREPA.

The MDEQ 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 and criminal litigation and petitions in the maximum amount provided by law, including recovery of all legally incurred costs, and attorneys' fees.

**STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY**

Date Issued: December 1, 2006



Jon E. Russell, District Supervisor
Jackson District Office
Water Bureau

ADDRESS FOR FURTHER CORRESPONDENCE:

Water Bureau
Jackson District Office
301 East Louis Glick Highway
Jackson, Michigan 49201-1556

cc: Mr. Charles R. Bappert, Birigner, Hutchinson, Lillis & Bappert, P.C.
Mr. Alan Hoffman, Department of Attorney General
Ms. Nicole Zacharda, Enforcement Unit, WB, MDEQ-Lansing Office
File: Vreba Hoff Dairy I, CAFO, Lenawee County