



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

September 13, 2007

Mr. Willy van Bakel
Vreba-Hoff Dairy, LLC
8502 South Meridian Road
Hudson, Michigan 49247

Mr. Jack Van Kley
Van Kley & Walker LLC
132 Northwoods Boulevard, Suite C-1
Columbus, Ohio 43235

Dear Mr. van Bakel and Mr. Van Kley:

SUBJECT: Vreba-Hoff Dairy LLC Storage Structure Capacity and Compliance with Interim Order Requirements

This letter is a follow-up to the letter sent by the Michigan Department of Environmental Quality (MDEQ), Water Bureau, and the Michigan Department of Attorney General (MDAG) on August 24, 2007. As you are both well aware, that letter was sent due to the MDEQ's grave concerns that the situation at Vreba-Hoff's two Hudson-area dairies had deteriorated substantially during the week of August 19, 2007, culminating with the failure of the concrete storage structure at Vreba-Hoff I on August 23, 2007. It now appears that rather than taking the appropriate steps to resolve the many issues at the Dairy Operations, Vreba-Hoff has allowed conditions to further deteriorate to the point the Dairy Operations now pose a grave threat to public health and the environment.

The MDEQ and MDAG were previously informed that Mr. Willy van Bakel is personally in charge of operations at these dairies. We now understand that Mr. van Bakel has recently been overseas and, as such, was not in a position to personally oversee the operation of the facilities. Given Mr. van Bakel's repeated assurances to the MDEQ and Mediator Glazer that he would be in charge of the Dairy Operations, his recent absence, and the departure of the VanderHoffs from these facilities, we are very concerned that there is no experienced, knowledgeable person vested with the responsibility and authority for the overall management of the operations at these facilities. This lack of overall management control at these facilities is resulting in violations of the Consent Judgment and state law, a lack of progress toward completion of the new EarthMentor System for waste treatment at these facilities, and the deterioration of the waste management situation at these facilities to the point that it represents a significant threat to the public health and the environment.

The most recent example of the adverse effects of this lack of overall management control at these facilities is the purposeful exceedance of freeboard requirements that occurred when Vreba-Hoff transferred waste from Vreba-Hoff II and the pits under the barns at Vreba-Hoff I to the failed concrete storage structure at Vreba-Hoff I (it appears that this took place late Friday, September 7, or Saturday, September 8). This is the same structure that should have been emptied completely after the MDEQ advised in the August 24, 2007, letter that the failed structure constituted an unlawful discharge to the ground or groundwater that must immediately cease. In spite of that directive, Vreba-Hoff added substantially more waste to the structure to exceed freeboard and storm volume requirements, which in turn overflowed after a relatively moderate rain event on September 9, 2007, impacting the South Medina Drain.

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A related example of the current crises situation at the Dairy Operations involves the lack of waste storage capacity and the absence of acceptable options to treat or otherwise legally handle the waste already stored on site and additional waste being generated every day. On September 10, 2007, Vreba-Hoff staff conceded that only 2 structures at the Dairy Operations were in compliance with freeboard requirement resulting in 5 structures with a combined excess-of-operational volume of 1,680,000 gallons (calculated by Mr. Dave Ricke). As you are well aware, according to the Interim Order, the waste in those structures cannot be land applied, but must be treated or transported to an off-site treatment facility.

Also on September 10, 2007, Vreba-Hoff staff revealed a plan to "treat" this waste through the Press Treatment System (PTS) in order to regain required operational capacity. This again is contrary to Vreba-Hoff's long-standing assertions that the PTS cannot effectively treat "old manure." This is not an acceptable practice, is not consistent with the Interim Order, and will take a significant period of time to return structures to allowable operational capacity. The only available solution, therefore, is transporting to an off-site treatment facility. Vreba-Hoff should immediately begin transporting as much waste as possible to appropriate off-site facilities consistent with the Interim Order to restore waste volumes in these structures to appropriate levels. If Vreba-Hoff is unable to restore the structures to appropriate levels by transporting waste, Vreba-Hoff should remove animals to reduce the amount of waste being generated.

In addition, it appears that regardless of the MDEQ's ongoing requests to properly mark available storage capacity for each structure at the Dairy Operations, Vreba-Hoff is continuing to use markers that are misplaced, improperly marked, and wholly ineffective as evidenced by the overflow of the concrete structure at Vreba-Hoff I on September 9. This makes it nearly impossible for either Vreba-Hoff employees or the MDEQ to determine accurately the status of waste volumes in these structures. Vreba-Hoff should immediately install staff gauges in each structure that accurately identify the 12-inch freeboard and 24-hour/25-year storm volumes as required in the Interim Order.

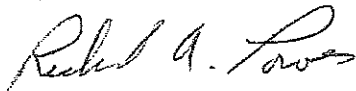
In our letter of August 24, 2007, we objected to Vreba-Hoff's addition of waste from the Treated Effluent Structure to the EarthMentor's primary Treatment Cell at Vreba-Hoff I while the cell was still being "precharged." Vreba-Hoff offered to remove the waste from the structure, but acknowledged that additional construction delays would ensue. In an effort to allow Vreba-Hoff to move forward with the implementation of the agreed-upon EarthMentor treatment system, the MDEQ agreed that the waste could remain in the primary cell so long as Vreba-Hoff provided a certification from a qualified engineer that the resulting total volatile solids levels in the cell (based on MDEQ's data, which it should be noted was remarkably different from Vreba-Hoff's split of the same sample) would not adversely affect the operational effectiveness of the EarthMentor treatment system. That certification has not yet been submitted. Instead it now appears that Vreba-Hoff has once again followed its past practice of taking actions contrary to the Interim Order by putting an additional 500,000 gallons of waste from the Treated Effluent Structure into the primary Treatment Cell at Vreba-Hoff II on or around September 10, 2007. We again remind Vreba-Hoff that the Interim Order requires all waste must pass through all components of the EarthMentor treatment system designed to treat that waste.

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Finally, Vreba-Hoff's August 28, 2007, reply to our August 24 letter indicated that the EarthMentor treatment system would come online by September 15, 2007, even though a number of construction deadlines within the Interim Order were not met. The observations of the MDEQ staff at the Dairy Operations this week have confirmed that it is highly unlikely that all stages of the EarthMentor treatment system will be in place by this Saturday.

A stipulated penalty demand will also be forthcoming along with a reservation of MDEQ's preserved right to seek appropriate remedies due to the threat Vreba-Hoff's operation poses to human health and the environment.

Sincerely,



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Alan F. Hoffman, Assistant Attorney General
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cc: Mr. Steven E. Chester, Director, MDEQ
Mr. Jim Sygo, Deputy Director, MDEQ
Mr. Frank J. Ruswick, Jr., Special Assistant to the Director, MDEQ
Mr. Frank J. Baldwin, MDEQ
Mr. Byron Lane, MDEQ
Mr. Jon Russell, MDEQ
Ms. Nicole Zacharda, MDEQ