



A Report by the Socially Responsible Agricultural Project in Partnership  
with Family Farm Defenders and Kewaunee Citizens Advocating  
Responsible Environmental Stewardship

# The Rap Sheets

Industrial Dairies in Kewaunee County, Wisconsin

*The Regulatory Failure of the Wisconsin Department of Natural Resources: A Threat to Public Health and the Environment*



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*The Regulatory Failure of the Wisconsin Department of Natural Resources: A Threat to Public Health and the Environment*

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# FOREWARD

Citizens living near concentrated animal feeding operations (CAFOs) work hard to find accountability for the extreme pollution that has saturated the land, air and water. Their right to work toward democratically created land use goals all but disappeared in 2004 when lawmakers passed the Livestock Facility Siting Law despite great opposition from their own constituents.

We're told the technical standards governing livestock factories are vigorous and designed to turn animal waste in to a valued asset. Why then are an unacceptable number of rural wells and too many of our public waters tainted by a toxic soup? Liquid animal waste, laced with industrial chemicals, manure from animals pumped full of hormones and antibiotics to manage disease in crowded confinement facilities is spread untreated throughout the landscape. Antibiotic resistant pathogens are teeming in the toxic pools that store up to 100 million gallons of liquid manure per facility. Industry has referred to this waste as liquid gold.

In a time when extreme weather events are becoming more frequent and less predictable, the manure lagoons regularly have "spills" and "accidents." Structures storing millions and millions of gallons of waste are constructed with technical standards based in out-of-date precipitation data. The Livestock Facility Siting Law has fueled exponential growth in the number of CAFOs, mirrored by a parallel decline in regulatory staff. Public servants with larger workloads, fewer resources and little autonomy to base determinations in sound science are charged with issuing, monitoring and enforcing permits to prevent public health problems caused by massive pollution from industrial dairies.

*"We're told the technical standards governing livestock factories are vigorous and designed to turn animal waste in to a valued asset."*

*"Why then are an unacceptable number of rural wells and too many of our public waters tainted by a toxic soup?"*

This report includes critical information compiled by hundreds of hours of combing through records not readily available to the people who need it most. All the hard working neighbors of Wisconsin who monitor water quality, watchdog rogue discharges of pollution and educate their communities are better off for the generous attention of the Socially Responsible Agricultural Project (SRAP), as a loyal and generous partner, advocate and teacher for Wisconsin families who've suffered the many impacts of industrial dairies.

Kimberlee Wright, J.D.  
Executive Director  
Midwest Environmental Advocates, Inc.

*Kimberlee Wright was born and raised in central Illinois. Living where Abraham Lincoln first practiced law inspired Kimberlee to value and strive for social justice. She was introduced to the wonders of the natural world by her grandmother, a master gardener and naturalist.*



# EXECUTIVE SUMMARY

The industrialization and corporate consolidation of dairy production has exploded nationwide over the last few decades, driving many small family dairy operations out of business. The total number of U.S. farms with dairy cows fell 88 percent between 1970 and 2006, while the number of dairy operations with more than 2,000 cows grew 104.6 percent between 2000 and 2006 (MacDonald, et al., 2007). In Wisconsin alone, the number of farms with dairy operations has fallen from 150,000 to 10,500 since 1944 (Mueller, 2014).

No other Wisconsin county has even come close to the rapid consolidation and expansion of dairy cow numbers seen in Kewaunee County. Between 1983 and 2012, the number of dairy cows increased 38.6 percent in Kewaunee County (Wisconsin Department of Natural Resources, 2014). During this same time period, only three other Wisconsin counties have shown increases in total dairy cow numbers – Brown at 7.4 percent, Manitowoc at 4.1 percent and Fond du Lac at 3.4 percent (Wisconsin Department of Natural Resources, 2014).

Kewaunee County has a human population of 20,574 (Kewaunee County, Wisconsin, n.d.) and a cattle population of at least 76,000 (2014 Kewaunee County Agricultural Nutrient Balance Summary), the majority of which (74,848) are dairy cows, dairy heifers and dairy calf replacements (2014 Kewaunee County Agricultural Nutrient Balance Summary). Over 50 percent of dairy production in the county is now permanently confined in just 15 facilities called Concentrated Animal Feeding Operations, or CAFOs (Mueller, 2014), which confine at least 700 dairy cows or 1,000 beef cattle. Compared to other Wisconsin counties, Kewaunee is currently ranked: #1 in cattle density (0.365 cows per acre); #1 for CAFO density per acre; #1 for recent cow herd growth (1983-2012); #2 for total number of permitted CAFOs (15, after Brown County's 20); and #5 for cow-to-human ratio (3.89 cows per human) (Petition for Emergency Action Pursuant to the Safe Drinking Water Act, 42 U.S.C. §300i, 2014).

The county currently has 14 dairy CAFOs and one beef cattle CAFO that produce the waste equivalent of 924,882 humans (Mueller, 2014) – approximately equal to the populations of the municipalities of Milwaukee, Madison and Green Bay combined (List of municipalities in Wisconsin by population, n.d.). However, unlike municipalities that are required by federal law to treat their human sewage before it can be discharged to the environment, CAFO manure and wastes are typically stored for months in huge open-air waste pits and then dumped untreated on farmland under the guise that it is “fertilizer” used to grow crops.

Kewaunee County CAFOs generate and land-apply over 340 million gallons of untreated liquefied manure and 81,332 tons of untreated solid manure annually to the county's cropland (Mueller, 2014). At current rates, Kewaunee County dairies and its small beef cattle herd disposes of over 12.4 million pounds of nitrogen annually, exceeding the crop nutrient uptake capability of county farmland by more than 1.15 million pounds each year (Petition for Emergency Action Pursuant to the Safe Drinking Water Act, 42 U.S.C. §300i, 2014). This excess nitrogen, once a potentially valuable crop amendment, is then released into the local environment, where it converts to nitrates at harmful levels that have had devastating effects on the region's shallow groundwater resources, negatively impacting rural residents' drinking water wells, local waterways and wetlands.

Kewaunee County's land surface, along with all or part of 41 Wisconsin counties, sits upon karst geography (Bradbury, 2009). Karst geography is typified by highly fractured shallow carbonate bedrock, consisting of cracks, crevasses, sinkholes, disappearing streams, and springs, all of which provide direct conduits for pollutants to enter the area's shallow groundwater aquifers (Bradbury, 2009). These groundwater resources provide the sole source of drinking water to approximately 95 percent of the county's rural residents. The county has a well-documented and extensive history

of excessive nitrates and bacterial pollutants contaminating these fragile underground water resources. As of June 2013, 30.85 percent of tested drinking water wells county-wide contained nitrates and/or dangerous E. coli bacteria at levels deemed unsafe for human consumption by state and federal authorities. In some county locales, contamination of tested wells exceeded 50 percent (Petition for Emergency Action Pursuant to the Safe Drinking Water Act, 42 U.S.C. §300i, 2014). Simply put, the excessive concentration and over-saturation of animal wastes has created a public health emergency for county residents.

*The Rap Sheets: Industrial Dairies in Kewaunee County, Wisconsin* focuses on violations, hundreds of manure management failures and a host of other operational problems at sixteen large CAFOs operating within the county (The former Duescher Legendairy Farms confinement facility entered court-ordered receivership in April 2012. This confinement facility is now owned and operated by, and permitted to, Randall L. Ebert, dba Ebert Dairy Enterprises LLC). The report also highlights the utter failure of the Wisconsin Department of Natural Resources (WDNR) to provide responsible oversight, regular inspections and common sense enforcement of state laws enacted to protect public health and welfare, Wisconsin's public trust doctrine and the state's natural resources.

The data was collected and excerpted from local, state and federal agency records, in some cases spanning over three decades of documented problems.

This report details repeated manure mismanagement, both accidental and intentional. Among the multitude of documented problems:

- *Spills, discharges and excessive over-application of manure resulting in polluted runoff into Lake Michigan, streams, rivers, wetlands, ponds, woods and roadsides, and onto neighboring properties*
- *Violating permitted setback distances by spreading wastes too close to, or onto, wetlands, waterways, wells, sinkholes, and neighboring properties and homes*

- *Spreading wastes on frozen ground, saturated fields, excessive slope, unapproved fields, and shallow or exposed fractured bedrock*
- *Failure to report spills, fish kills, over-application runoff, and discharges to WDNR as required by law*
- *Constructing manure storage pits on top of fractured bedrock and an active spring*
- *Waste storage pits overtopping and discharging directly to streams*
- *Discharging silage leachate resulting in polluted runoff*
- *Deliberate discharges into wetlands*
- *Dumping wastes on non-owned and non-tillable property*
- *Crashed, overturned and leaking manure tankers on area fields and roadways*
- *Building a CAFO without a permit*
- *Operating a CAFO without a permit*
- *Operating high-capacity wells without a permit*
- *Constructing waste storage(s) without a permit*
- *Headland stacking and storage of manure without a permit*
- *Operating aerial manure spraying equipment without a permit*
- *Filling and destruction of wetlands without a permit*
- *Accepting other industrial wastes into manure storage units without a permit*
- *Crop tilling through waterways and wetlands*
- *Failure to comply with approved Nutrient Management Plans*
- *Failure to maintain adequate manure storage*
- *Failure to construct manure storage to approved specifications*
- *Failure to keep and maintain required records*
- *Failure to file required reports*
- *Required farm and/or crop consultant records do not match what was provided to WDNR*
- *Confinement structures flooded with manure from clogged or broken drains and waste pipelines*
- *Excessive erosion from croplands and production areas*
- *Confinement structure collapses killing animals*
- *Illegal burning of structures and production materials*

Clearly, the county's industrial CAFOs have run roughshod over the state's clean water laws, all too often ignoring their permits and operating

with impunity. Just as clearly, WDNR, the agency charged with enforcing Wisconsin's environmental statutes and regulating the state's CAFOs, has completely failed in their duty to protect the county's residents, their health and the county's surface and ground waters. In reality, citizen complaints drive the vast majority WDNR's investigations of spills, over-application of manure and polluted runoff. The CAFOs are otherwise rarely inspected by WDNR for compliance, as infrequently as once every five years.

WDNR claims that required Nutrient Management Plans (NMPs) are intended to help CAFOs and other farmers "reduce excess nutrient applications to their cropland and the water quality problems that result from nutrient runoff to lakes, streams and groundwater." However, 79 percent of the county's farmland already has NMPs in place (WI Department of Agriculture, Trade and Consumer Protection, 2013), while groundwater pollution of residents' drinking water wells has continued to increase. NMPs have failed to protect area groundwater resources, and these nutrient management regulations are not being enforced.

How much animal waste has poured into Kewaunee County's rivers, streams, wetlands, underground aquifers and drinking water supplies from spills, over-application and runoff of manure? WDNR doesn't know. A 2011 report, funded by the Professional Nutrient Applicators Association of Wisconsin (PNAAW) and the University of Wisconsin-Extension, found that, "There is no uniform tracking system between agencies, much less within a single agency. There is a wide variety of tracking systems (through [sic: thorough] to almost nonexistent) across the WDNR regions and county LCD's [Land Conservation Departments]." The report also found that there are no less than eleven unconnected

spills/runoff incident databases within WDNR, but there is no central WDNR database repository where these various databases can be accessed (Ronk & Erb, 2011).

In an Oct. 2014 ruling on a proposed industrial dairy permit expansion, contested by Kewaunee County residents, Wisconsin Division of Hearings and Appeals Judge Jeffrey Boldt wrote that, "The proliferation of contaminated wells represents a massive regulatory failure to protect groundwater... The Department needs to utilize its clear regulatory authority to require groundwater monitoring to enhance its ability to prevent further groundwater contamination." (In

*"WDNR, the agency charged with enforcing Wisconsin's environmental statutes and regulating the state's CAFOs, has completely failed in their duty to protect the county's residents, their health and the county's surface and ground waters."*

the Matter of the Wisconsin Pollutant Discharge Elimination System Permit No. WI-0059536-03-0 (WPDES Permit) Issued to Kinard Farms, Inc., Town of Lincoln, Kewaunee County, 2014).

Kewaunee County residents have lost faith in WDNR's ability, willingness and political power to protect public

health and are seeking federal intervention to restore clean, safe and healthy drinking water. In October 2014, a coalition of local citizens, clean water advocacy groups and public interest legal organizations filed a Petition for Emergency Action detailing the urgent need for the United States Environmental Protection Agency (USEPA) to exercise its powers under the Safe Drinking Water Act and other federal pollution cleanup laws. These laws empower the EPA to step in to provide safe drinking water in communities where contamination poses serious health threats (Petition for Emergency Action Pursuant to the Safe Drinking Water Act, 42 U.S.C. §300i, 2014).

The county's industrial dairy CAFOs have already proposed to the Wisconsin Department of Natural Resources to add approximately 10,000 or more "animal units" (a mature dairy cow equals 1.4 animal units) to their existing opera-

tions by the end of 2015 (Petition for Emergency Action Pursuant to the Safe Drinking Water Act, 42 U.S.C. §300i, 2014). In March 2014, Kewaunee County Land & Water Conservation Department officials stated that there were potentially over 45,000 additional animal units under consideration in the county (Mueller, 2014). Governor Walker's WDNR must reject these proposed expansions, and commit the state's agency personnel and financial resources to eliminating the public health emergency in Kewaunee County.

Adding insult to injury, American taxpayers have contributed over \$14.4 million dollars in feder-

al and state subsidies and grants to the CAFOs described in this report. Taxpayers have a vested interest in paying for beneficial systems that work, not for failed technology that injures public health and the environment.

WDNR's hands-off approach in regulating Kewaunee County's industrial CAFOs has proven to be an abject failure. The agency's "all carrots, and no stick" oversight has left county residents with contaminated groundwater, a polluted countryside and a public health emergency. This must change.

# METHODOLOGY & DATA RESOURCES

Facility descriptions are taken verbatim from the owner's/operator's personally-signed applications for new or renewed Wisconsin Pollutant Discharge Elimination System (WPDES) operating permits submitted to the Wisconsin Department of Natural Resources (WDNR) when the operation was last permitted or re-permitted under renewal. There is no known third-party verifications of the operations' submitted permit application numbers. However, it is believed that many of these operations have now already expanded well beyond the numbers stated in their last applications to WDNR, in both animal numbers, and liquefied manure and dairy waste storage capacity.

Environmental compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR), Wisconsin Department of Justice (WDOJ), Wisconsin Division of Hearings and Appeals, Kewaunee County Cir-

cuit Court, Kewaunee County Land and Water Conservation Department, County of Kewaunee, County of Brown, City of Green Bay, and the USEPA. All environmental compliance data was acquired by physically copying thousands of paper files at State of Wisconsin offices or via digital downloads. All known fines and penalties are identified in this report. If no fines or penalties are identified, it is assumed that no fines or penalties were assessed by the regulatory agencies.

Federal farm subsidy and grant data is from records compiled by the United States Department of Agriculture (USDA) and the Environmental Working Group. State subsidy and grant data is from records compiled by the State of Wisconsin and the Wisconsin Democracy Campaign.

Aerial imagery is compiled from Google Earth ©. Other photographs are credited to their source.

# RECOMMENDATIONS

Wisconsin has become a “green light” destination for the industrial livestock industry since the passage of the Livestock Facility Siting Law (LFSL) in 2004. This law effectively preempted local control over the siting of confined animal feeding operations (CAFOs). In fact, with over 260 permitted CAFOs and dozens of others in the pipeline awaiting approval, WI now boasts some of the highest densities of confined livestock in the U.S. east of the Mississippi River. Prior to 2004, communities were able to manage agricultural activities within their jurisdictions through zoning rules and other ordinances developed in open democratic processes. But this level of public scrutiny had proven too inconvenient for the expanding industrial livestock industry, hence leading them to lobby for passage of the LFSL.

Not surprisingly, some of the most organized citizens in Wisconsin are now those living near these CAFOs and whose local governments were largely rendered powerless through the LFSL. If people in Wisconsin no longer have the choice to decide whether or not an 80 million gallon manure lagoon is appropriate for their community, they can at least work together to hold these CAFOs – and the state entities that approve them accountable to standards that do still exist.

This report reveals shocking details of regulatory failure which allowed for the continuous expansion of CAFOs, releasing hundreds of millions of gallons of untreated animal waste each year. Kewaunee County, on the shores of Lake Michigan, is in the midst of a public health crisis due to the contamination of more than 30 percent of tested private drinking water wells county-wide, and with more than 50 percent of wells tested being unfit for human consumption in the Town of Lincoln. Manure running out of one’s tap or down the walls of one’s basement is not a fictional experience in this part of the Midwest, and this nightmare scenario is not just limited to ground water pollution. It also threatens Wisconsin farmworkers, tourists, and even consumers through beach

closings, fish kills, airborne pathogens from manure spraying, toxic plumes of ammonia and hydrogen sulfide, as well as the highest levels of antibiotic residues found in meat and milk products anywhere in the country.

There are nearly four times as many cattle in Kewaunee County as people. Each cow produces as much waste as 18 humans. The livestock of Kewaunee now produce more waste than 1.3 million people in a county with a human population just over 20,000. One CAFO in the Town of Lincoln now in the process of expanding will be allowed to generate as much waste as a city of 200,000 people, even though over half of the wells in the town are now too dangerous to drink or use for cooking.

It is our hope that ongoing lawsuits, growing liability concerns, and other political accountability efforts will eventually overturn the LFSL altogether. In the meantime, it is essential to slow the rapid expansion and concentration of CAFOs in Wisconsin through what regulatory tools still remain. Industrial agriculture interests will use their powerful influence to maintain the law they helped create. While citizens continue to fight for the restoration of local control over the siting of industrial livestock facilities, public health and the environment can be better protected by holding the Wisconsin Department of Natural Resources (WDNR) accountable to the proper implementation and enforcement of existing standards.

At the same time Wisconsin experienced exponential growth in the number of CAFOs, the staff of the WDNR has been greatly reduced. It is rare for a CAFO to be visited even once by a WI state official during a typical five-year permit term. More often than not, permits are being rubber stamped even if the application is incomplete and lacking a thorough, independent technical review. Many would argue that the public trust doctrine embodied in the founding mission of the WDNR has been compromised by the CAFO issue.

The public health risks associated with industrial dairies in Wisconsin are severe. Not only are rural families put at great risk of harm from private wells unfit for human consumption, but they are left to pay the bills to purchase water, test, treat and increasingly to replace their wells. Known polluters are very rarely required to reimburse impacted families or taxpayers who fund the limited state well replacement program. Under LFSL it is actually illegal for local governments to mandate liability bonding for CAFOs and the state has refused to set up its own indemnity or clean-up funding mechanism.

With public health risks so high, the least that families left in harm's way should expect from their own government is the right to be notified of every permitting process related to CAFOs, with information provided in a manner that average people can understand, and with enough time to review proposals before the public comment period begins. All too often, critical facts about a proposed CAFO are not available to the public until approval has already occurred. If citizens are going to be forced to assume the burden of reviewing CAFOs themselves, they at least deserve to have all the facts during the entire time the clock is running on their opportunity to comment.

The public also deserves to have sufficient, qualified staff in the WDNR to provide technical review of permit applications for all CAFOs. This is especially true in Kewaunee County where the public is already at great risk due to unique geological formations such as karst topography. Unfortunately, the "one size fits all" permitting procedure dictated by LFSL does not allow for any consideration of such local issues. In the case of Kewaunee County, extensive groundwater monitoring of production areas and spreading fields is now needed to assess and repair the problem.

Due to the massive volumes of untreated animal waste being disposed of through land spreading, both CAFO operators and local residents need an accurate and up-to-date source of information on the location, timing and quantity of manure disposed to ensure there is no overspreading whether inadvertent or intentional. The WDNR

has a state-of-the-art land information system that could map the spreading contracts of every permitted CAFO to reduce the risk of runoff and water contamination.

The cost of obtaining permits to license, build and operate CAFOs should include adequate DNR staffing to provide technical review, regular monitoring of permitted facilities and timely enforcement of permit conditions. A general permit was created for CAFOs of a certain size with the rationale that WDNR staff would then be freed up to monitor and enforce permits. In reality, during the decade of rapid exponential growth of CAFOs in Wisconsin, related staffing at the WDNR has been drastically reduced. Turning environmental regulation into an unfunded mandate is a recipe for disaster.

Everywhere there is a CAFO in Wisconsin, citizen groups have stepped into the void left by lack of local government control and feeble state regulation to take on the heavy task of public oversight. Across regions where CAFOs are concentrated, citizens have completed training to monitor water quality. Citizens watchdog the spreading of manure, document leaking manure lagoons and track the illegal dumping of animal waste along roadways, in wetlands and streams, as well as in forests. Given their lack of adequate support to properly protect the natural resource heritage of the state, one would think the WDNR would welcome citizen scientists as valuable partners. Instead, those who take the initiative are often marginalized and treated like suspects instead of exemplary civic-minded citizens.

Some recommendations suggested by this report include:

- *The creation of a statewide clean-up fund to deal with liability issues stemming from violations by state permitted CAFOs, financed through permit fees and court penalties*
- *The creation of statewide ambient air quality standards that address airborne pollutants emanating from CAFOs such as ammonia, hydrogen sulfide, and methane*
- *Increasing the minimum distance requirements for manure disposal activities – from residences,*

- wells, schools, hospitals, as well as public resources like lakes, parks, and streams
- Mandating tougher engineering requirements for manure digesters, manure pits, feed bunkers, and other associated CAFO infrastructure
- Ensuring public notice and right-to-be-heard on every permitting process related to CAFOs, with information provided in a way that average people can understand prior to the end of public comment periods
- Sufficient, qualified staff at WDNR for regular monitoring and enforcement of permits, as well as technical review of permit applications for CAFOs
- An aggressive and timely governmental response to severe groundwater pollution problems that result from using purely agronomic standards as the only guide for nutrient management
- Online data for producer reporting, monitoring and enforcement activities
- Online, geographic information showing all spreading fields with reporting data tied to locations identified on maps
- Partnership between the public and WDNR on proper protocol for citizen watchdogs to use in tracking spreading, water quality, air quality with WDNR training and system to collect citizen data
- Online data showing complaints and “tips” received by citizens witnessing or concerned about potential pollution or violations, including response time metrics
- Thorough analysis of known manure spills, including harm to public waters and aquatic life, fines paid, remediation activities required and polluter paid testing for area wells over time

John E. Peck, PhD  
Executive Director  
Family Farm Defenders

*John E. Peck grew up on a 260 acre farm in central Minnesota, has a B.A. in Economics from Reed College and a PhD in Land Resources from UW-Madison. He has been the Executive Director of Family Farm Defenders for the last decade, and is also a part-time instructor of Economics and Environmental Studies at Madison Area Technical College (MATC).*



# ACKNOWLEDGMENTS

We wish to thank the following organizations and individuals that made major contributions to this report: Kewaunee Citizens Advocating Responsible Environmental Stewardship (CARES); Family Farm Defenders; Midwest Environmental Advocates; and personnel of SRAP including Scott Dye, Lynn Henning, Danielle Diamond, Kendra Kimbirauskas and Steve Masar.

# The Rap Sheets



# DA-RAN DAIRY LLC



**Da-Ran Dairy LLC**  
**E183 Luxemburg Road**  
**Luxemburg, Wisconsin 54217**

**Owner(s) / Operator(s): Dave J. Stahl, Randall M. Stahl, Gerald G. Stahl**

Federal USDA Subsidies 2000-2012: Da-Ran Dairy - \$ 1,544,208

Federal USDA Subsidies 1995-2001: Gerald G. Stahl - \$ 340,678

State Assistance 1999-2004: Da-Ran Dairy LLC - \$ 8,000

Facility Description: Industrial dairy complex permitted to confine approximately 1,810 animals (milking and dry cows, heifers and calves) under Wisconsin Permit WI-0059579 (last issued 10/12/2012). Liquefied manure and dairy wastewater is currently stored in three earthen waste pits, permitted to contain approximately 19 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR), County of Brown and the City of Green Bay. Federal subsidy data is from USDA records assembled by the Environmental Working Group. State assistance data is from records assembled by the Wisconsin Democracy Campaign. Aerial image is from Google Earth ©.

On or About	Description Da-Ran Dairy LLC
09.11.13	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Jay Schiefelbein to Gerald Stahl, Subject: DeGrand Satellite Facility Discharge Investigation:</b> “On Sept. 06, 2013, the Department of Natural Resources (the Department) responded to a complaint regarding an alleged discharge of a substance to the road ditch along Rockledge Road. During the inspection leachate could be seen dripping from the silo and collecting on the ground; it was apparent that the leachate had been flowing into an inlet that accepts clean water from the farmstead parking lot.”</p>
06.22.12	<p><b>Correspondence from Brown County Corporation Counsel Kristen Hooker to Gerald Stahl, Subject: Notice of Noncompliance – Violation of Brown County Animal Waste Management Ordinance Chapter 26:</b> “The purpose of this letter is to advise you that the BCL WCD [Brown County Land and Water Conservation Department] received a complaint about manure hauling and stacking being conducted on your farming operation in violation of Brown County Ordinance, Chapter 26.</p> <p>Upon inspection of your farming operation, the BCL WCD revealed the following items being conducted in specific violation of Brown County Ordinance, Chapter 26: Violation 1: No nutrient management plan was received by Brown County Land and Water Conservation Department by June 1, 2012 for 2012 growing season. Violation 2: No information regarding stacking sites was communicated to or approved by Brown County Land and Water Conservation Department as part of nutrient management plan [sic]. No temporary stacking permits were applied for or granted... Violation 3: Inspection found that streams on property owned by Da-Ran Dairy did not have buffer strips installed which is required by Brown County Ordinance, Chapter 22 and is also a requirement of the nutrient management plan.”</p>
05.29.12	<p><b>Correspondence from City of Green Bay Housing/Zoning Inspector Scott Nelson to Gerald Stahl, Re: 253 BLK N Grandview Rd. Parcel 21-404:</b> “It has been brought to my attention that you have disposed of manure on non-tillable land owned by the city of Green Bay. You currently farm the tillable acreage on this property. The city has determined it must be removed. You are being held responsible for its removal. Should you fail to remove it by June 19, 2012, the city will do so and charge you all expenses. Should you choose to remove it yourself you must maintain certain erosion control practices and restore the site to a stable and vegetated condition.”</p>
05.29.12	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Jay Schiefelbein to Gerald Stahl, Subject: Notice of Noncompliance – Unapproved Solid Manure Stacking Site:</b> “On May 15, 2012 the Department of Natural Resources (the Department) responded to a complaint regarding the stacking of solid manure on property owned by the City of Green Bay (the City), specifically parcel number 21-404 (the parcel). A large amount of solid manure was observed on the</p> <p>(continued on the next page)</p>

On or About	Description Da-Ran Dairy LLC
	<p>(continued from the previous page)</p> <p>parcel and there is evidence that manure has run off the areas where it was initially stacked... On May 18, 2012, prior to the site meeting, you were contacted regarding the stacking of solid manure. You stated that you did stack manure south of field number 62 as identified in Da-Ran Dairy LLC's nutrient management plan and that approval had been given from the Department; this approval was not found during a review of Da-Ran's file. You further stated that you were unable to attend the site meeting.</p> <p>The Department has serious concerns regarding Da-Ran's failure to stack manure according to the requirements outlined in their WPDES permit."</p>
05.15.12	<p><b>Memo to file:</b> "On May 15, 2012, Joe Baeten (wastewater specialist with the WDNR) performed a follow up investigation of an illegal dumping of farm animal waste in eastern Brown County. ... Tire tracks indicate that the spreader was backed up to the northern most tip of the current manure plume (blue outline in figure 2) and then discharged just in this one spot. Figure 3 shows the tire tracks from the spreader and figure four shows the northern area of the manure plume where manure was discharged from the spreader. By the looks of the shape of the manure pile as well as other characteristics of the pile the manure freely flowed from the manure dumping site and fanned out to the south... The runoff then enters a channel which runs parallel to the railroad tracks (figure 9) which then flows under the tracks through a man-made tunnel (figure 10) and into Baird's Creek (figure 11)."</p>
05.06.10	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Dave Stahl, Subject: Summary of Compliance Inspection for WPDES Permit Renewal:</b> "On April 29, 2010, the Department of Natural Resources (Department) conducted a compliance inspection of Da-Ran Dairy LLC... After reviewing the file, no information was found regarding the proposed monitoring and inspection program which was due 90 days after the permit effective date (due around September 30, 2005) under Section 3.1 of the WPDES permit. ... During the inspection, it was determined that the nutrient management plan documents the farm receives from the consultant are different from the documents received by the Department."</p>
05.05.10	<p><b>Correspondence/Memorandum to File, Subject: CAFO WPDES Compliance Inspection Summary:</b> "Callis met with Dave Stahl for a compliance inspection for permit reissuance on April 29, 2010 at 9:30 a.m. ... There is a concrete feed lot and two earthen feedlots at the [Da-Ran] DeGrand Farm... The concrete lot does not have any runoff controls at this time. Runoff from the lot travels through the southern earthen lot and either flows northwest towards a mapped intermittent stream through the vegetation or travels to the southwest to the road ditch. This area was identified as a problem and temporary measures should be taken to re-establish the burned out vegetation from runoff. ... [Feed] Leachate collected in this gate gravity flows to reception pit in the nearby freestall barn and is directed to manure storage. During heavy rain events, the system overflows to an underground pipe discharging to the northwest. This channel is mapped as an intermittent stream."</p>

On or About	<p>Description</p> <p>Da-Ran Dairy LLC</p>
08.07.09	<p><b>Correspondence/Memorandum to File by WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: Manure Stacking Complaint:</b> “Callis [WDNR] received information from Casey Jones [WDNR] regarding a manure stacking complaint Jones received from Brown County LWCD on Aug. 7, 2009. The complaint stated that manure was being stacked in a field off of CTH N and Grandview Road in the City of Green Bay from Da-Ran Dairy. The complaint also stated that the manure was running off into Baird Creek. Stahl stated that he did not see any problems with the stack but that he would have the manure stack moved to another field further away from the stream. Jones provided the update to Brown County LWCD.”</p> <p><i>SRAP comment: There were no other file records found regarding the complaint indicating follow-up enforcement or the imposition of forfeitures or penalties.</i></p>
09.15.08	<p><b>WDNR Substance Release Notification Report:</b> “L &amp; M Industries was hauling liquid manure from the Da-Ran Farm via tanker truck to the field on CTH V about ½ mile south of CTH N. At the field the manure was pumped from the tanker trailer through a hose to the injector. The vibration of the hose on the caused the hose to be cut on the culvert edge. As a result of the cut hose liquid manure was released into the ditch. The pump was shut off immidiatly [sic] when the hose was cut.”</p> <p><i>WDNR comment: Spill was estimated at 250 gallons.</i></p> <p><i>SRAP comment: WDNR identified L&amp;M Industries Inc. as the Responsible Party.</i></p>

# DAIRY DREAMS LLC



**Dairy Dreams LLC**  
**E3576 Cardinal Road**  
**Casco, Wisconsin 54205**

**Owner(s) / Operator(s): John T. Pagel (Owner), Don Niles (Manager) and one other identified only as “USDA exempted entity from release”**

Federal USDA Subsidies 2002-2012: Dairy Dreams LLC - \$ 259,212

Federal USDA Subsidies 1995-2000: John T. Pagel - \$ 180,915

Federal USDA Rural Development Energy Grant 2003: Dairy Dreams - \$ 99,950

Federal USDA Rural Development Energy Grant 2004: Dairy Dreams - \$ 494,000

State Assistance 1999-2004: Dairy Dreams LLC - \$ 509,000

**Facility Description:** Industrial dairy complex permitted to confine approximately 4,052 animals (2,744 milking and dry cows, 573 heifers, and 735 calves) under Wisconsin Permit WI-0062057 (last issued 4/3/2012). Liquefied manure and dairy wastewater are currently stored in one concrete waste pit, one concrete tank, one earthen and concrete waste pit, and three earthen waste pits, permitted to contain approximately 40 million gallons.

**Sources:** Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Federal rural development grant data is from USDA. State assistance data is from records assembled by the Wisconsin Democracy Campaign. Aerial image is from Google Earth ©.

On or About	Description Dairy Dreams LLC
08.01.14	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to John Pagel, Registered Agent for Dairy Dreams LLC, Subject: Notice of Violation:</b> “This Notice of Violation is based on Site inspections on April 10 and April 16, 2014 (Inspections), review of documentation, and several conversations with Dairy Dreams. The Department received a complaint of runoff from the facility. During the April 10th Inspection, the Department determined the feed storage runoff control pump had been frozen and inoperable for several days. A large amount of snow and waste feed was stacked within the feed storage area and actively melting. This resulted in leachate traveling to a clean storm water diversion channel that ultimately discharges to an intermittent stream, a navigable water way [sic]. Observations of waste feed in the storm water diversion and a manure pile located by the calf hutch area further compounded discharge concerns.</p> <p>To ensure discharges stopped, the Department conducted an April 16 Inspection at the Facility. The following is a summary of ongoing areas of concern:</p> <ul style="list-style-type: none"> <li>• <i>The concrete lined manure storage pond located on the north-east side of the Facility did not have a maximum operating level (MOL) marker, as required.</i></li> <li>• <i>Blown feed was observed in the storm water diversion channel, mainly the storm water diversion to the east of the feed storage area. Water in the ditch was stagnate and dark in color.</i></li> <li>• <i>Ongoing deficiencies in the feed storage runoff collection system contribute to runoff channelization paths in the VTA [Vegetated Treatment Area] and runoff discharges to storm water diversions.</i></li> <li>• <i>Potential calf hutch area runoff to clean storm water diversion.”</i></li> </ul>
01.09.14	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to Don Niles, Subject: Notice of Noncompliance – Manure runoff from land application site:</b> “On Nov. 15, 2013, the Door County Soil and Conservation [sic] Department responded to an incident in which manure left the field application site of a Dairy Dreams [sic] field. According to the letter, liquid manure left the field application site and entered an adjacent road ditch. The Department was notified of this incident by the Door County Soil and Conservation [sic] Department.</p> <p>The Department finds that you are in noncompliance with the following conditions: <b>General Spreading Restrictions:</b> ‘During dry weather conditions, manure or process wastewater may not run off the application site.’ Noncompliance – 24 Hour Reporting: ‘The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances...’”</p>
11.26.13	<p><b>Correspondence from Door County Soil &amp; Water Conservationist Nick Peltier to Don Niles:</b> “On Nov. 15, 2013, the Door County Soil &amp; Water Conservation Dept. received a report of liquid manure in the road ditch adjacent to Rabbit Road. Upon investigation, it was determined that manure had flowed from fields owned</p> <p>(continued on the next page)</p>

On or About	Description Dairy Dreams LLC
	<p>(continued from the previous page)</p> <p>and operated by Dairy Dreams LLC/Pagels [sic] Ponderosa LLC... Upon review of the severity of the violation, it has been determined that Citation No. 2914 (original enclosed) shall be issued.</p> <p>It is the goal of this action that you understand and convey to your employees/manure applicators the severity of any manure leaving the application site. The persons applying the manure need to recognize situations where application method/rate, field conditions/topography, weather conditions, soil moisture, etc are causing manure runoff or potential runoff and adjust or stop the application to prevent runoff from occurring.</p> <p>On Oct. 29, 2009, a cease and desist order was issued to stop manure applications due to similar, wet soil conditions on these fields. There have also been other incidences of runoff/manure application issues on other fields in the past.”</p> <p><i>SRAP comment: Bond deposit for Citation 2914 was set at \$263.50.</i></p>
03.31.13	<p><b>Quarterly Monitoring Report Form for January-March 2013 from Dairy Dreams to WDNR:</b> “Feed pad snow with some feed pad residue was hauled to [field] JJ-5. This was done to prevent excess meltoff [sic] in the leachate collection. A fine was issued by Door Co <b>despite DNR permission to do this hauling.</b>” <i>[SRAP emphasis]</i></p>
03.21.13	<p><b>Correspondence from Door County Soil &amp; Water Conservationist Nick Peltier to Don Niles:</b> “On Friday, March 8, 2013, I noticed that some feed waste/snow had been applied to field JJ-5... I noticed that this material was contaminating the snowmelt on the field and the contaminated melt water was frozen downslope from the application, on the east side of the field. I contacted you, explained my concerns and asked that you take any possible steps to prevent the forecasted rain from causing contaminated runoff to leave the field. On Monday, March 11, I observed contaminated runoff water in the road ditch directly down gradient of the field and the feed waste/snow application. This runoff is prohibited in standards referenced by Section 1.31(4)(c) Chapter 23 of the Door County Code. A citation is enclosed as [an] enforcement penalty for this noncompliance.</p> <p>Based on soils investigations on the adjoining property and soil maps, the application site as well as the adjacent road ditch has approximately 12-20 inches of soil over bedrock. This limited soil depth significantly increases the likelihood that nutrient applications and runoff events will negatively impact groundwater quality.”</p> <p><i>SRAP comment: Bond deposit for Citation 2905 was set at \$263.50.</i></p>

On or About	Description Dairy Dreams LLC
05.28.12	<b>Email from Dairy Dreams' Don Niles to WDNR Agricultural Runoff Management Specialist Casey Jones, Subject: RE: NON [Notice of Noncompliance] for Dairy Dreams:</b> "After a thorough assessment of the field and discussion with Ryan Debroux [contract manure applicator], we have come to the following conclusion. The manure applied in DD25 turned out to be far more mobile than was anticipated."
05.23.12	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Casey Jones to Don Niles, Dairy Dreams LLC, Subject: Notice of Noncompliance – Manure runoff from land application site:</b> "On May 18, 2012 the Door County Soil and Water Department inspected a surface application of manure from Dairy Dreams LLC running off hayfield [sic]. On May 22, 2012 Department of Natural Resources staff inspected field identified as DD-25 in Dairy Dreams nutrient management plan to confirm violation. The inspection revealed that surface applied manure had run off the intended land application site."
05.19.12	<b>Email from Don Niles to Door County Soil &amp; Water Conservationist Nick Peltier:</b> "...I went into the woods at the point you were concerned about possible escape. I saw the area about 8" wide that ran into the woods and was 'wet'. [sic] I picked up handfuls of the wet dirt at several locations along this line. In all cases it smelled like 'wet dirt', [sic] not manure... Once again, I saw no sign of manure in this material."
05.18.12	<b>Correspondence from Door County Soil &amp; Water Conservationist Nick Peltier to Don Niles:</b> "On Friday, May 18, 2012, I saw that your farm had surface applied manure onto an alfalfa field (DD-25)... Upon further investigation, I found that manure had run off the application site and approx. 300 ft east into the woods on the adjoining property. This is in violation of Section 1.31(4)(c) Chapter 23 of the Door County Code, and enforcement action can be perused [sic] which may include a citation. The appropriate measures should be taken immediately to prevent further runoff problems. Also please note that this area is directly up gradient of Silver Creek so runoff from this site has the potential to cause substantial environmental harm."
05.10.12	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Casey Jones to Don Niles, Subject: Notice of Noncompliance – Discharge of process wastewater from Dairy Dreams LLC to intermittent stream:</b> "On May 1, 2012 the Department received a complaint regarding feed storage area runoff discharging into [a] road ditch from Dairy Dreams LLC. On May 1, 2012 and May 3, 2012 Department staff inspected the area of concern... The inspection revealed that the existing feed storage area runoff controls are unable to adequately collect and treat process wastewater prior to discharging into [an] offsite channelized flow area connected to an intermittent stream."
08.25.11	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Subject: Notice of Noncompliance – Shallow Bedrock Verification:</b> "On August 19, 2011 the Department received an anonymous  (continued on the next page)

On or About	Description Dairy Dreams LLC
	<p>(continued from the previous page)</p> <p>complaint regarding land spreading activities on field Bouche-1... After reviewing the soils information, the Department has determined that two soil types in field Bouche-1 have the potential for bedrock to be located within 24 inches from the surface. These soils were not identified in the nutrient management plan as having restrictions to bedrock. In addition, no field verification information was found on file for this field regarding depth to bedrock excluding this area from the spreading restriction requirements. Based on this information, the farm is in noncompliance with Section 4.5.6 Manure Spreading Prohibitions of the WPDES permit. This section states that ‘manure shall not be spread... on fields with soils less than 24 inches thick over fractured bedrock.’”</p>
06.19.11	<p><b>WDNR online BRRTS database record:</b> “Power failer [sic] allowed tank to over flow [sic]. Manure ran into the road ditch.”</p> <p><i>WDNR comment: Spill was estimated at 3,000 gallons.</i></p>
10.05.10	<p><b>Email from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Subject: Manure Spill – Dairy Dreams:</b> “Hello Don - I understand there is an ongoing clean-up for a manure spill near Euren where a hose broke and manure is in the road ditch very close to Casco Creek. There is a warden on scene to monitor the clean-up. Please ensure you document the spill and clean-up activities and provide me a report of the actions taken. I should also note that this spill was not reported through the Spills Hotline but rather a neighbor called it in to the local sheriff’s office. Please ensure all of your contract haulers are aware of your permit requirements with regard to spill reporting and clean-up.”</p> <p><i>WDNR comment: Spill was estimated at 1,000 gallons.</i></p>
08.13.10	<p><b>Email from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Angie Ratajczak and Todd Koss, Subject: Manure Spreading Complaint – FYI:</b> “Hello Don (and others) – I received a manure spreading complaint on August 6th while I was on vacation. The complaint was with regard to Field ‘Perelewitz-1’ in section 5, Town of Ahnapee – listed in your nutrient management plan as the Dandy Veal Farm. The complaint involved ponding, possible runoff to the Ahnapee River, potential groundwater concerns, volume of manure spread on the field, tracking mud on the road, and odor. The WPDES permit does not regulate the mud on the road or odor issues.</p> <p>Warden Kuhn investigated the complaint on August 12th and was unable to find any evidence of runoff from the field to the Ahnapee River. There was minor ponding on the field... At this time, I do not see any issues with the application but wanted to make sure you aware [sic] of the complaint as I do not think this is a neighborhood you have historically spread in.”</p>

On or About	Description Dairy Dreams LLC
02.25.10	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Subject: Notice of Noncompliance – Solid Manure Stacking:</b> “On February 10, 2010, the Department received an anonymous complaint through the Kewaunee County Land and Water Conservation Department regarding runoff to the road ditch from manure being stacked on a concrete barnyard at the ‘Wautlet Farm’ in the Town of Lincoln on CTH C. After investigating the complaint, the Department determined that the manure being stacked at the ‘Wautlet Farm’ was from Dairy Dreams. Based on the investigation and contact with Dairy Dreams, the Department has determined that the manure stacking at the ‘Wautlet Farm’ is not in compliance with the Wisconsin Pollutant Discharge Elimination System (WPDES) permit conditions and Chapter NR 243, Wisconsin Administrative Code. The barnyard at the ‘Wautlet Farm’ is not identified in the current WPDES permit as an acceptable option for solid manure storage.”</p>
11.12.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Subject: Manure Applications on Saturated Soils and Ponding:</b> “The Department of Natural Resources (Department) received a complaint from the Door County Soil and Water Conservation Department on October 29, 2009 regarding manure applications conducted by Dairy Dreams LLC. The complaint involved spreading manure on a field with possible saturated soils as well as manure ponding. As a reminder, Chapter NR 243.14 (2)(b)1, Wisconsin Administrative Code, states that ‘manure or process wastewater may not be applied to saturated soils.’ In addition, Chapter NR 243.14 (2)(b)1, Wisconsin Administrative Code, states that ‘manure or process wastewater may not pond on the application site.’ <b>If soils are noted as being saturated, manure should not be applied to those soils.</b>” [WDNR emphasis]</p>



When manure is over-applied to fields it will runoff and pollute the waters of the state.

Photo Credit: SRAP

On or About	Description Dairy Dreams LLC
11.03.09	<p>Correspondence from Door County Soil &amp; Water Conservationist Shelby Giguere to Don Niles: “This letter is in follow-up to the Cease and Desist Order of October 29, 2009 for Parcel # 0040026262412. As of 1:30 PM on October 29, 2009, the Cease and Desist Order was lifted and manure applications were permitted in writing to the Soil and Water Conservation (SWCD) by Dairy Dreams, LLC: No manure applications on saturated portions of the field... Areas of the field that may be more saturated and therefore not able to absorb the planned application rate (16,000 gallons per acre) will receive manure at half the planned application rate. No ponding of manure, especially around the field edges where the tractor applying manure makes its turns to begin the next row... Once the manure application is complete, surface manure must be incorporated along the field edges.</p> <p>Another area of concern is the manure transfer site on Parcel # 0040026262421 (in the southwest corner of Rabbit and Kohlberg Roads). There is a substantial amount of water ponded around the transfer pad that has mixed with overspill from the manure tankers. As part of the manure hauling plan in order to continue with manure applications, this water must be dammed up in order to prevent it from running off into the road ditch.</p> <p>Please be reminded that subsequent manure applications by Dairy Dreams on this parcel or others that are in violation with any part of Door County Code Chapter 23, Subchapter III may initiate enforcement action including the issuance of a citation and/or referral to the Door County Corporation Counsel for additional action.”</p>
10.29.09	<p><b>Correspondence from Door County Soil &amp; Water Conservationist Shelby Giguere to Don Niles, Re: Parcel # 0040026262412:</b> “You are hereby notified that the manure application on the property cited above is in violation of Subchapter III of Door County Code Chapter 23 Agricultural Performance Standards and Animal Waste Storage Ordinance, Department of Natural Resources, Chapter 243 Animal Feeding Operations and USDA-NRCS Conservation Practice Standard for Nutrient Management (590) due to manure applications on saturated soils, ponding of manure at the surface, compromised soil conditions such as compaction and the creation of ruts and other factors.</p> <p><b>ORDER:</b> Per Chapter 23, Subchapter III, Sec 1.23(2), Door County Code you are to immediately <b>cease and desist</b> [Door County emphasis] any and all manure applications on Parcel # 0040026262412.”</p>
05.28.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Subject: Notice of Noncompliance – Chapter NR 243.142, Wisconsin Administrative Code: Improper Distribution of Manure:</b> “On May 13, 2009, the Department of Natural Resources (Department) received a landspreading complaint for Dairy Dreams LLC. The complainant informed the</p> <p>(continued on the next page)</p>

On or About	Description Dairy Dreams LLC
	<p>(continued from the previous page)</p> <p>Department that the vehicles spreading on fields in Section 5 in the Town of Ahnapee were originating from Dairy Dreams LLC. Upon further investigation, the Department determined that Dairy Dreams LLC was providing manure to Dandy Veal, a non-permitted operation. Therefore, the land application and tracking of manure and landspreading activities remain the responsibility of Dairy Dreams LLC...</p> <p>Dairy Dreams LLC was receiving whey product from Packerland Whey Products in Luxemburg [WI], a WPDES permitted operation under the industrial wastewater program, during the winter months. At this time, Dairy Dreams may no longer accept whey products from Packerland Whey Products. [WDNR emphasis] Under ch. NR 243.17(2), the addition of chemicals, pollutants or other waste requires Department review and approval. Dairy Dreams LLC will need to request a new approval if the farm wishes to accept industrial materials from Packerland Whey Products in the future.”</p>
10.01.08	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Don Niles, Subject: Landspreading Event on Monday, September 29, 2008:</b> “Thank you for contacting the DNR Spills Hotline with respect to the landspreading event on Monday, September 29, 2008. According to the Spill Hotline report, Warden Chris Kratcha and our phone conversation on Tuesday, September 30, 2008, manure was spread on a field owned by [redacted] in Town of Brussels, Door County on Monday, September 29, 2008. Manure was applied within 10 feet of an old well in the field. Upon discovery of this issue, the manure was immediately incorporated and the DNR Spill Hotline was informed.</p> <p>After reviewing the nutrient management plan, it appears that the field in question is not part of the plan the Department has on file for Dairy Dreams LLC.</p> <p>As a reminder, Chapter NR 243.14 (2)(b)9, Wisconsin Administrative Code, prohibits the application of manure or process wastewater within <b>100 feet</b> [WDNR emphasis] of a private well for WPDES permitted operations.”</p>
03.14.08	<p><b>WDNR online BRRTS database record:</b> “On Friday, March 14, 2008, at about 11:53AM Warden Kuhn received a report of a manure release at the Dairy Dreams dairy farm... Warden Kuhn was advised by the Hotline staff that the manure was contained and cleanup was under way. At about 1:30PM Warden Kuhn arrived on scene and met with the RP [Responsible Party] (Don Niles). The release resulted after the pump that pumps the manure from the holding area into the first settling pit failed. ...manure over topped [sic] the holding area onto the ground east of the holding area.”</p> <p><i>WDNR comment: Spill was estimated at 50,000 gallons.</i></p>

On or About	<div data-bbox="753 98 1154 233">Description</div> <div data-bbox="794 186 1114 233">Dairy Dreams LLC</div>
01.14.02	<p><b>Correspondence from WDNR to John T. Pagel, Dairy Dreams LLC, Subject: Conditional Potable High Capacity Well Approval, Lincoln Township, Kewaunee County:</b> “OTHER CONSIDERATIONS The geological conditions at the site are highly susceptible to ground water contaminants. This was confirmed by the existing low capacity well on the property, which was originally cased to a depth of 125 feet, yet the well was designated as unsafe due to the presence of microbes in the pumped water. A liner had to be installed in that well and the well had to be deepened before it could be considered safe. The proposed land use will concentrate a large quantity of potential ground water contaminants on the site, which will result in a significant possibility of ground water contamination. Furthermore, the usage of high capacity wells can create a strong horizontal gradient towards the wells and can cause a much stronger downward vertical gradient which can increase the rate that potential contaminants are drawn towards the high capacity wells from locations where potential contaminants may exist on the site. For these reasons, it is recommended that you consult with a ground water professional and establish a regular schedule of ongoing ground water sampling.”</p>

# DEER RUN DAIRY LLC



**Deer Run Dairy LLC**  
**N1215 Sleepy Hollow Road**  
**Kewaunee, Wisconsin 54216**

**Owner(s) / Operator(s): Duane D. Ducat, Derek Ducat, Dale E. Bogart, and three others identified only as “USDA exempted entity from release”**

Permit Number: WI-0063789 (Last Issued 6/26/2013)

Federal USDA Subsidies 2009-2012: Deer Run Dairy - \$ 115,205

Federal USDA Subsidies 1995-2010: Duane D. Ducat - \$ 613,071

Federal USDA Subsidies 1995-2008: Dale E. Bogart - \$ 332,507

Federal USDA Subsidies 2009-2012: Triple D Cropping - \$ 123,244

Federal USDA Rural Development Energy Grant 2004: Ducat Farms - \$ 247,018

**Facility Description:** Industrial dairy complex permitted to confine approximately 1,215 animals (milking and dry cows) under Wisconsin Permit WI-0063789 (last issued 6/26/2013). Liquefied manure, dairy wastewater and rotten waste feed is currently stored in three earthen waste pits, permitted to contain approximately 21.6 million gallons.

**Sources:** Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Federal rural development grant data from USDA. Aerial image is from Google Earth ©.

On or About	Description Deer Run Dairy LLC
07.16.14	<p><b>Correspondence from Manitowoc County Soil &amp; Water Resource Conservationist Tony Smith to Dwayne [sic] Ducat, RE: Notice of Problem – Manure Spreading Sec 3, Kossuth Township:</b> “This notice is to advise you that the mechanical manure application at your property west of Diamond Road, North of Quarter Road does not meet requirements stated in [the] Manitowoc County Animal Waste Ordinance. No manure may be mechanically applied to land that is within 300 feet of and that drains to a drainage tile surface inlet, intermittent stream, perennial stream or pond unless it is incorporated into the soil within 48 hours of application.</p> <p>Manure applications on your field were surface applied on harvested grass hay on July 11, 2014. No incorporation of manure was observed to have occurred since. Manitowoc County SWCD has no record of nutrient management plans for the property for 2014 or future crop years. <u>Future applications of manure within setback areas without proper incorporation can result in fines.</u> [SWCD emphasis] Failure to prepare annual nutrient management plans can result in loss of Farmland Preservation Credits, and may be in violation of your DNR-CAFO requirements.”</p>
08.12.13	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to Duane Ducat, Subject: Notice of Noncompliance – Digester Waste Acceptance without approval:</b> “This notice is to advise you that the Department of Natural Resources (Department) has reason to believe that Deer Run Dairy is in violation of its WPDES permit requirements. It has been brought to the attention of Agricultural Runoff Management Specialist, Danielle Block, that Deer Run Dairy had accepted industrial waste from NEW Organics without first obtaining approval from the Department.”</p>
02.09.13	<p><b>WDNR Substance Release Notification Report:</b> “Equipment malfunction caused floor drains in [manure] digester building to backup and overflow out onto ground. Manure froze on top of the ground; manure was scraped up with a skid steer and blade from the tractor [and] placed into manure storage.”</p> <p><i>WDNR comment: Spill was estimated at 750 gallons.</i></p>
06.11.10	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Duane Ducat, Subject: Compliance Inspection Summary:</b> “Based on the compliance inspection and a file review of the permit materials, Deer Run Dairy LLC is not in substantial compliance with the permit.</p> <p>During the inspection, the farm was piling feed on a dirt area along Sleepy Hollow Road, as well as an area behind the barns in locations that are not approved for permanent or temporary feed storage. The original permit proposal in 2008 included plans and specifications for permanent feed storage with runoff controls to address leachate. Currently, the farm does not have an approved feed storage area and is not addressing leachate associated with stored feed.</p> <p>(continued on the next page)</p>

On or About	Description Deer Run Dairy LLC
	<p>(continued from previous page)</p> <p>As-built documentation for the new manure storages, transfer lines, reception pits, and modifications to the feedlot runoff control system have not been submitted to date. This information was due 60 days after the completion of construction.”</p>
11.18.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Duane Ducat, Subject: Temporary Feed Storage:</b> “The Department has received a number of complaints regarding the feed piles stored along Sleepy Hollow Road at Deer Run Dairy LLC...On Nov. 16, 2009, the Department viewed the area in question and determined the feed is currently being piled directly on the ground and covered with plastic (see attached photographs) outside of an approved feed storage area at the production site. At this time, the Department does not have an approval on file for temporary feed storage.”</p>
01.13.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Duane Ducat, Subject: Notice of Noncompliance:</b> “Monitoring &amp; Inspection Program: This section states that a monitoring and inspection program addressing the requirements...is due 90 days after the permit issuance and is to be submitted to the Department. This information was due Sept. 30, 2009. [sic]</p> <p>Manure Storage Facility – Engineering Evaluation: This section states that an evaluation of the existing manure storage structure (the older concrete pit) is required to be completed to determine that it meets NRCS 313 Technical Standards for construction and design as well as determine if the structure if [sic] functioning properly. This evaluation was due Dec. 31, 2008.</p> <p>Runoff Control System – Engineering Evaluation: This section states that an evaluation of the existing runoff control structures (the existing outdoor barnyard area) is required to be completed to determine that is [sic] meets NRCS Technical Standards for construction and design as well as determine if the structure if [sic] functioning properly. This evaluation was due Dec. 31, 2008.”</p>



Giant exhaust fans are often placed on dairy buildings to blow out toxic gases that would otherwise make animals and workers sick. Neighbors to CAFOs complain about illness, which they believe to be caused by the gases generated at CAFO operations. Photo Credit: SRAP

# DUESCHER LEGENDAIRY FARMS



**Duescher Legendary Farms**  
**N6388 Longfellow Road**  
**Algoma, Wisconsin 54201**

**Owner(s) / Operator(s): Formerly Keith A. Duescher; Court-ordered receivership in April 2012; Currently owned and operated by Randall L. Ebert (dba Ebert Dairy Enterprises LLC)**

Federal USDA Subsidies 1996-2006: Keith A. Duescher - \$ 525,662

Facility Description: Industrial dairy complex previously permitted to confine approximately 2,500 animals under Wisconsin Permit WI-0059005 (revoked). Liquefied manure and dairy wastewater were stored in two earthen waste pits containing approximately 12.5 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR) and the Wisconsin Department of Justice (WDOJ). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Duescher Legendairy Farms
09.12.13	<b>State of Wisconsin v. Keith A. Duescher, Judgment:</b> "...judgment is hereby granted in favor of the plaintiff State of Wisconsin, and against the defendant, Keith A. Duescher, in the amount of \$100,000."
08.14.13	<b>State of Wisconsin v. Keith A. Duescher, Complaint:</b> "At various times since 2005, defendant placed an inlet in a navigable water without a permit, discharged fill material into wetlands without a permit, burned plastic and a barn outdoors, stored and disposed of solid waste without a license, failed to inspect for asbestos prior to demolishing and to provide written notice of intent to demolish a barn, discharged pollutants directly from a feed storage area and outdoor feedlots and a temporary outdoor manure storage area to a tributary to Lake Michigan, failed to complete the evaluation for and construction of a runoff control system for the outdoor animal feed lots and feed storage area so as to prevent discharges to the tributary [sic], constructed a new 7-8 million gallon manure storage facility without submitting plans for approval, constructed a new permanent irrigation system for manure spreading without approval, and failed to comply with monitoring and reporting and landspreading requirements in Duescher's Legendairy Farms' wastewater discharge permit, all in violation of Wis. Stat. chs. 30, 281, 283, 285 and 289."
03.20.13	<b>Correspondence from WDOJ Assistant Attorney General Cynthia Hirsch to attorney David Crass representing Duescher:</b> "At your request we are submitting a proposal to settle this matter... I've reviewed the previous correspondence in this case and discussed this matter with WDNR staff. I further understand that the receiver has worked with WDNR to insure the required remediation at the site is accomplished and that the only remaining issue is a judgment against Keith Duescher requiring him to pay forfeitures and penalties for the violations stated in the complaint. I suggest we resolve this matter with a stipulation that the defendants pay \$150,000."
07.31.13	<b>Correspondence from WDOJ Assistant Attorney General Jo Anne Kloppenburg to attorney David Crass representing Duescher:</b> "We offered to settle all claims for \$300,000 and you have counter-offered to settle for \$44,870. We agree that certain points you make warrant lowering the settlement amount, and based on a fair reading of all the information before us we believe that \$210,858.50 is a reasonable reflection of the settlement value of this case at this pre-filing stage."
07.21.09	<b>Email from WDNR Conservation Warden David Allen to WDNR Agricultural Runoff Management Specialist Amy Callis:</b> "Keith [Duescher] had Andy (foreman I guess) come over and pick up the solid manure clumps out of the ladies [sic] yard and wash off the manure from the side of her house. The complainant stated she had a well casing under a little lighthouse (decorative) in her front yard that was well within the 100 ft. of where they were spreading manure. The complainant also stated Duescher's [sic] spread right on top of the waterway, running east of the barns, that leads directly into Lake Michigan and that when it rains it goes into the lake... I also asked Andy about the 'horse farm' complaint and he stated they 'usually don't spread there!' I advised Andy that it was not approved for them to be spreading there and that they shouldn't spread there anymore. He stated 'OK.'"

On or About	Description Duescher Legendairy Farms
08.11.98	<p><b>File Summary, Duescher Manure Spill 8/11/98:</b> “The Manure [sic] spill that occurred on the Duescher farm resulted from an excessive application of manure to hay fields... Mr. Duescher indicated that he had told the applicator L &amp; M Industries Inc to put on as much as they could, and they agreed to approximately 30,000 gallons per acre... As a result of the application extensive runoff to Lake Michigan Occurred [sic]. Mr. Duescher denied responsibility for the incident... When shown the blackstreams [sic] and plume of contaminated water flowing several hundred yards into Lake Michigan he denied there was a problem... Several home owners along the shore witnessed the entire episode and expressed a willingness to testify in court if necessary.”</p> <p><i>SRAP comment: Duescher was found guilty and a forfeiture of \$332 was paid on March 3, 1999.</i></p>
07.22.98	<p><b>Complaint Form:</b> “She has a complaint that every time they have a west wind the smell of manure is so bad. The smell comes from a farm a mile away from her home. She has lived their [sic] 20 yrs and it has never been this bad. They can’t even open their windows. The name of the farmer is Keith Duescher.”</p>
05.23.96	<p><b>State of Wisconsin Substance Release Report:</b> “South birm [sic] of [manure] holding pond breached allowing liquid manure to run into ditch then about 1 mile into Lake [Michigan]. Upon arrival [WDNR Conservation Warden] Bartz found pit still being pumped and over flowing [sic] into ditch.”</p> <p><i>WDNR comment: Spill estimated at 20 thousand gallons.</i></p> <p><i>SRAP comment: Duescher was found guilty and a forfeiture of \$396.80 was paid on Sept. 9, 1996.</i></p>
04.16.96	<p><b>Complaint or Information Record:</b> “Complainant states creek by his house is polluted w/something...it looks like liquid manure... [Investigative Remarks] He [Duescher] stated that in mid march [sic] he spread 200 loads of liquid manure on his fields and each load would have been between 3,000 &amp; 3,200 gallons. On 4/15/96 we had several inches of snow and when it melted on 4/16/96 most of the manure went into creek and them [sic] into lake [sic] Michigan... Keith stated – I’ll be the first one to admit where most of the manure ended up. The creek looked brown and smelled like manure...”</p> <p><i>SRAP comment: There were no other file records found regarding the complaint indicating follow-up enforcement or the imposition of forfeitures or penalties.</i></p>



Manure runoff from a CAFO production site traveled through a road culvert.

Photo Credit: Kewaunee CARES

# EBERT DAIRY ENTERPRISES LLC



**Ebert Dairy Enterprises LLC**  
**N6939 County Hwy D**  
**Algoma, Wisconsin 54201**

**Owner(s) / Operator(s): Randall L. Ebert**

Federal USDA Subsidies 1995-2012: Randall L. Ebert - \$ 1,184,183

**Facility Description:** Industrial dairy complex permitted to confine approximately 5,714 animals (2,992 milking and dry cows, 2,324 heifers, and 398 calves) under Wisconsin Permit WI-0062235 (last issued 1/8/2014). Liquefied manure and dairy wastewater is currently stored in one metal Slurrystore © structure, two concrete waste pits and two earthen waste pits, permitted to contain approximately 41 million gallons. The former Duescher Legendairy Farms confinement facility is now currently owned and operated by and permitted to Randall L. Ebert (dba Ebert Dairy Enterprises LLC).

**Sources:** Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Ebert Dairy Enterprises LLC
06.25.14	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to Randall Ebert, Subject: Notice of Violation:</b> “This Notice of Violation is based on a Site inspection on April 8, 2014 (Inspection), review of documentation, and several conversations with Ebert Dairy. During the Inspection, the Department determined Ebert land applied solid manure on the Longfellow West Field within approximately 150 from an intermittent stream on snow covered ground during the month of January 2014. According to the Permit, no land application on frozen or snow covered ground is to occur within 600 feet of an intermittent stream... In addition, solid manure was land applied within 0 to 100 feet of a mapped wetland on snow covered ground during the month of January 2014. According to the Permit, no land application on frozen or snow covered ground is to occur within 400 feet of a wetland. The Longfellow West field has &gt; 6 to 9% slope.</p> <p>Upon review of land application documentation submitted by Ebert Dairy, the Department believes Ebert land applied frozen liquid manure on the DB and LA fields during the months of December 2013 and January 2014. According to the Permit, no land application on frozen or snow covered ground is to occur on fields with greater than 6% slopes. The DB and LA fields have greater than 6% slopes.</p> <p>Ebert Dairy land applied the LA and DB fields with frozen liquid manure without first obtaining Department approval or listing the fields in Ebert Dairy’s approved nutrient management plan.</p> <p>During the Inspection, the Department observed a brown colored discharge leaving the Longfellow West field. The Department collected a water sample of the discharge and had it analyzed for bacteria and nutrients, parameters indicative of a manure discharge. Sample results indicate manure discharges off the Longfellow West field. Ebert’s failed to comply with all land application restrictions as indicated above.”</p>
04.08.14	<p><b>Email from Kewaunee County Land &amp; Water Conservation Department Soil Specialist Paul Fredrich to WDNR Agricultural Runoff Management Specialist Danielle Block, Subject: Ebert:</b> “We took a look at the hole on Ebert’s land. It is near a surface inlet as the picture shows. There is a culvert by the surface inlet that flows north and joins a large waterway. I believe this is a tile blowout.”</p> <p><i>SRAP comment: This is in response to a citizen complaint and photo of a large hole that had opened in a permitted Ebert Dairy manure application field.</i></p>
03.07.14	<p><b>A Contested Case Petition for Review was filed against the WDNR by McGillivray, Westerberg &amp; Bender LLC and Environmental Integrity Project on behalf of 10 petitioners impacted by the operations of Ebert Dairy Enterprises LLC.</b></p>
01.08.14	<p><b>The renewal of Ebert Enterprises LLC’s state operating permit is issued by WDNR, permitting future expansion of the operation.</b></p>

On or About	Description Ebert Dairy Enterprises LLC
09.05.13	<b>A public hearing was held by WDNR in Kewaunee County to hear public comments regarding a proposed draft for renewal of Ebert Enterprises LLC's state operating permit, allowing future expansion of the operation.</b>
11.13.12	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to Randy Ebert, Subject: Notice of Noncompliance – Manure runoff from land application site:</b> “On November, 5, 2012 Randy Ebert, owner of Ebert Enterprises LLC, reported a manure runoff incident from a land application site. A Department of Natural Resources staff [sic] inspected the field identified as SK2 in Ebert Enterprises [sic] nutrient management plan to confirm the violation. The inspection revealed that surface applied manure had run off the intended land application site. The manure left Field SK1 via a road culvert and entered the property of Scott and Deborah Kliment... As we discussed with you by phone, you need to take action to ensure this does not happen again.”</p> <p><i>WDNR comment: The manure on the Kliment property “was cleaned up using five-gallon buckets by working hands from the Ebert Dairy farm.”</i></p>
03.25.09	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Ms. Polczinski to Randy Ebert, Subject: March 11, 2009 Correspondence:</b> “This letter is a follow-up to a March 11, 2009, letter submitted on your behalf by Conestoga-Rovers &amp; Associates regarding removal of fill in three small wetland areas on property owned by Ebert Dairy Enterprise LLC (Ebert).</p> <p>According to your letter, the fields where these wetlands are located are currently planted in winter crop and, following harvest of the winter crop, will be planted no-till to corn. After the corn is harvested in mid-September, Ebert intends to begin removing the fill from the wetlands and complete restoration by Nov. 1, 2009.”</p>
01.22.09	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Judy Polczinski to Randy Ebert, Subject: Notice of Violation, Chapters 281 &amp; 283, Wis. Statutes:</b> “On Sept. 18, 2008, the Department conducted a compliance inspection of Ebert for renewal of the Permit (the Inspection). A number of compliance concerns associated with the Permit and areas of wetland fill were identified during the Inspection and subsequent file review.</p> <p>The Inspection revealed that runoff associated with the separated sand stacking area and the overflow pipe from the feed leachate area sump (both located at the Main Farm) was discharging directly to a mapped pond and wetland complex that are waters of the state.</p> <p>A summary letter of the Inspection was sent to Ebert on Nov. 6, 2008. In it the Department requested a status update by Dec. 1, 2008, regarding how Ebert was going to temporarily control further discharge from the separated sand stacking area and feed leachate area at the Main Farm to the mapped pond and wetland</p> <p>(continued on the next page)</p>

On or About	<div data-bbox="750 107 1156 184" data-label="Section-Header">Description</div> <div data-bbox="709 191 1198 233" data-label="Text">Ebert Dairy Enterprises LLC</div>
	<p data-bbox="391 268 880 306">(continued from the previous page)</p> <p data-bbox="391 346 1516 491">complex. The letter also requested Ebert to provide a proposed timeline for installation of permanent controls. In phone conversations on Dec. 9, 2008, and on Jan. 5, 2009, Mr. Randall Ebert told the Department that the information would be sent soon. To date, the Department has not received the requested information.</p> <p data-bbox="391 531 1516 825">The Inspection revealed that Ebert did not have a pump installed in the feed leachate control structure at the Main Farm feed leachate sump. Instead, the system was utilizing the overflow pipe and discharging directly to a mapped pond and wetland complex. The Nov. 6, 2008, Inspection summary letter requested a status update by Dec. 1, 2008, regarding how Ebert was going to temporarily control further discharge from the separated sand stacking area and feed leachate area at the Main Farm to the mapped pond and wetland complex. To date, the Department has not received the requested information.</p> <p data-bbox="391 865 1516 1121">The Inspection revealed that Ebert was constructing a filter strip at the Heifer Farm to direct runoff associated with both barnyard concrete feedlots to a wet area in the pasture. The Nov. 6, 2008, Inspection summary letter requested as-built documentation for the then-current runoff controls at the Heifer Farm as well as a timeline for when plans and specifications for the new construction would be submitted. The information was requested by Dec. 1, 2008. To date, the Department has not received the requested information.</p> <p data-bbox="391 1161 1516 1417">Based on information received during the Inspection and in subsequent contacts with Ebert on Nov.19, 2008, and the NRCS on Nov. 24, 2008, the Department believes soil has been placed into two isolated wetlands north of the Main Farm. Ebert has not applied for nor has the Department issued water quality certification for the fill in wetlands. In correspondence dated Dec. 15, 2008, the Department requested a plan for voluntary removal of the fill by Jan. 9, 2009. To date, the Department has not received the requested response.”</p>
06.20.08	<p data-bbox="391 1438 1516 1768"><b>WDNR Substance Release Notification Report:</b> “The tractor towing a liquid manure tanker was traveling north bound on CTH D. At about 1/10 mile north of CTH D the full trailer began sway [sic] back and forth on the roadway. The right side trailer tires went off the paved portion of the roadway into the steep ditch causing the tractor operator to loose [sic] control. The tanker rolled over in the field... about 4,000 gallons of liquid manure was spilled into the cut alfalfa field adjacent to the ditch... The ditch was damed [sic] on both the north and south ends of the contaminated area to prevent the manure from flowing further in the ditch. John R. Renier Sanitation was hired to vacuum the manure out of the ditch.”</p>

On or About	<div data-bbox="753 100 1154 184" data-label="Section-Header">Description</div> <div data-bbox="711 184 1198 233" data-label="Text">Ebert Dairy Enterprises LLC</div>
11.09.07	<p data-bbox="391 268 1516 306"><b>Unattributed memo in the Ebert Enterprises LLC file: [Typewritten Notes]</b></p> <p data-bbox="391 306 1516 531">“Ebert complaint – 11-9-07 Kewaunee county [sic]. Filled in area with concrete chunks, then gravel, in marsh area. (deer living in area, about ½ acre). 8 dump loads of gravel – not spread out yet. Ponding [of liquid manure]. Not sure if running off field. Though running into low spots. Concerned about well being [sic] (along with another neighbor). Applied liquid to field and then solid on top of that. Applied all day and all night for 4 days.”</p> <p data-bbox="391 569 1516 716">[<i>Handwritten Notes</i>] “F/U [follow-up?] – pics saved to Ebert’s file. Definite ponding, explained this wasn’t OK &amp; should be incorp. [incorporated, tilled in] immediately (48 or 72 h) [sic] depending on what permit says. Concerned that setbacks aren’t being followed (see pictures) – didn’t discuss w/ him – should follow up.”</p> <p data-bbox="391 753 1516 827"><i>SRAP comment: There were no other file records found regarding the complaint indicating follow-up enforcement or the imposition of fines or penalties.</i></p>



Erosion from a manure-application field in Kewaunee County.  
Photo Credit: Kewaunee CARES

# EL-NA FARMS LLC



**El-Na Farms LLC**  
**E4029 Pheasant Road**  
**Algoma, Wisconsin 54201**

**Owner(s) / Operator(s): Lonnie Fenendael, Shane E. Fenendael, Barry J. Fenendael**

Federal USDA Subsidies 2000-2012: El-Na Farms LLC - \$ 589,653

Facility Description: Industrial dairy complex permitted to confine approximately 1,530 animals (870 milking and dry cows, 480 heifers, and 180 calves) under Wisconsin Permit WI-0063061 (last issued 7/25/2011). Liquefied manure, dairy wastewater and solids are currently stored in two concrete waste pits and one earthen waste pit, permitted to contain approximately 9 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description El-Na Farms LLC
03.26.14	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Danielle Block to Lonnie Fenendael, Subject: Manure storage installation deadline:</b> “For the past two years El-Na Farms has requested permission from the Department to temporarily transfer manure to offsite storage structures due to manure transfer issues. According to El-na [sic] Farms 2013 Annual Report the farm currently has 202 days of storage.</p> <p>Due to ongoing manure transfer system deficiencies which appear to result in capacity issues, the Department requests that the new [proposed] manure storage be installed and usable by Nov. 1, 2014. If El-Na Farms cannot meet this deadline El-Na will need to verify and supply to the Department evidence of its total usable liquid storage capacity at their facility.”</p>
03.29.13	<p><b>WDNR Memo to file, Subject: El Na Farms [sic] Headland Stacking Complaint:</b> “On March 21, 2013 Joe Baeten of the WDNR responded to a runoff complaint of a headland standing site [of solid manure] in Kewaunee County. The land owner was concerned about the field runoff which made its way down the ditch and flowed past the front of his home. The landowner measured the distance from the well to the ditch totaling 75 feet. No active runoff was occurring at the time of the inspection on March 29 however there was standing, unfrozen water. A gravel berm was placed around the northern, eastern, and western sides of the stack to hold back any discharges from the site. The home owner stated the [sic] any runoff that made its way to the ditch would flow east past his home. The crop consultant for the farm was contacted immediately after the inspection and was notified to complete the berm around the stack.”</p>
03.28.13	<p><b>WDNR Email from Agricultural Runoff Management Specialist Jay Schiefelbein to Lonnie Fenendael and Nathan Nysse, RE: Informational: Approval of El-Na Transfer to Dairy Dreams RE: Manure Transfer:</b> “1,000,000 gallons will be transferred from El-Na’s storage basin to Dairy Dreams’ manure storage basin. Please evaluate El-Na’s current manure storage system and the compatibility of that storage with the existing flush flume system to ensure compliance with the 180 day storage requirement.”</p>
03.07.13	<p><b>WDNR Email from Agricultural Runoff Management Specialist Jay Schiefelbein to Lonnie Fenendael and Nathan Nysse, Informational: EL-NA Farms Manure Transfer Request:</b> “On March 7, 2013, the Department received a request from Nathan Nysse with Polenske Agronomic Consulting to transfer manure from El-Na Farms main dairy to offsite locations. Nysse explained that with the current pit levels (approximately 3’ below MOL [Maximum Operating Level]), are not allowing efficient operation of the flush flume system and a small amount of manure is backing up into the barn. The Department approves the transfer of 500,000 gallons of manure [to other facilities’ approved waste pits]...”</p>

On or About	<div>Description</div> <div>El-Na Farms LLC</div>
06.13.12	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Jay Schiefelbein to Lonnie Fenendael, Subject: Notice of Noncompliance – Spreading Manure in a Restricted Area:</b> “On Friday, June 8, 2012 the [Department] investigated a concern that liquid manure had been spread on a field known to have shallow bedrock. A site investigation confirmed that manure was applied to areas of the field that are restricted due to shallow bedrock. Additionally, manure was spread through a grassed waterway. The Department is very concerned with El-Na’s failure to accurately follow the restriction maps contained in the NMP [Nutrient Management Plan].</p> <p>As Schiefelbein was completing the investigation he was approached by Fenendael who asked how bad it was. Schiefelbein brought out the restriction map and showed Fenendael the restricted areas and how clear it was that manure was applied throughout both fields. Fenendael agreed. Fenendael stated that he quickly looked at the maps and admitted to not looking as carefully as he should have.”</p>
03.25.11	<p><b>WDNR Email from Agricultural Runoff Management Specialist Amy Callis to Lonnie Fenendael:</b> “The Department received a request from Nathan Nysse (Polenske Agronomic Consulting) on March 22, 2001 regarding transferring manure from El-na [sic] Farms to a temporary storage due to concerns regarding the pit levels at El-na [sic] Farms. At this time, the Department will provide temporary approval to place 500,000 gallons of manure per approved storage [Wallace Storage and Mueller Storage].”</p>
02.11.11	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Amy Callis to Lonnie Fenendael, Subject: Notice of Noncompliance – Manure Spreading on Unapproved Field [WDNR Investigator’s Notes]:</b> “...solid manure was applied on field BG-2. Approval was not authorized by the WDNR. Ground was snow covered at the time of application. [Citizen] Complaint was filed with the WDNR. Field slopes from the NRCS state that the field has 9-16% slopes with HrD2 as the most erosive soil at 10% of the average. After field review in winter, [El-Na’s] agronomist found that the slopes are below 6%, but winter surface applications should be monitored for movement after the application.”</p>
05.24.10	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Amy Callis to Lonnie Fenendael, Subject: Summary of Compliance Inspection for WPDES Permit Renewal:</b> “Feed Leachate Collection System: A few areas of erosion were noted during the inspection which the farm plans to address using a vegetative buffer.</p> <p>Concrete Lot at Heifer Facility: While as-built documentation is in the file, no information regarding an engineering evaluation regarding compliance with applicable technical standards was on file.</p> <p>Permanent Markers: Permanent markers for the maximum operating level, margin of safety and 180-day storage level need to be installed in the liquid manure storage.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>El-Na Farms LLC</div>
	<p>(continued from the previous page)</p> <p>Monitoring and Inspection Program: Under the WPDES permit, a proposed monitoring and inspection program was due to the Department 90 days after the permit effective date [Dec. 1, 2005]. No information is on file for this submittal.</p> <p>Annual Reports: After reviewing the permit file, it is noted that monitoring and inspection records for calendar years 2005, 2006, 2008 and 2009 are not in the file.</p> <p><b>Based on this information, this farm is considered in substantial compliance with the current WPDES permit.”</b> [WDNR’s emphasis]</p>

# HALLS CALF RANCH LLC



**Halls Calf Ranch LLC**  
**E2304 County Hwy F**  
**Kewaunee, Wisconsin 54216**

**Owner(s) / Operator(s): J. Hall**

WI Targeted Runoff Management Grant (Hall Manure Storage System, Fiduciary: Kewaunee County Land & Water Conservation Department) 2005 - \$ 112,780

Facility Description: Industrial dairy calf replacement complex permitted to confine approximately 4,800 animals under Wisconsin Permit WI-0065013 (last issued 2/28/2013). Liquefied manure and process wastewater is currently stored in one metal Slurrystore © structure, permitted to contain approximately 3 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR) and the U.S. Environmental Protection Agency (USEPA). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Halls Calf Ranch LLC
01.22.15	<p><b>USEPA Consent Agreement and Final Order, Proceeding to Assess a Class II Civil Penalty under Section 309(g) of the Clean Water Act, 33 U.S.C. §1319(g), Docket No. CWA-05-2015-0008:</b> “Based on the Respondent’s comments, EPA issued a modified Order on Feb. 7, 2014. This Order supersedes the June 11, 2013 Order. The Feb. 7, 2014 modified Order dictates the injunctive relief intended to return the Respondent into compliance with the CW A. The status of compliance with the June 11, 2013 Order had not yet been confirmed.</p> <p>Based on an analysis of the nature, circumstances, extent and gravity of the violations, the violator’s ability to pay, prior history of such violations, degree of culpability, economic benefit or saving resulting from such violations, and other factors as justice may require, as specified in section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), Complainant [EPA] has determined that an appropriate civil penalty to settle this action is \$42,000.”</p>
06.11.13	<p><b>USEPA Order for Compliance, Docket # V-W-13-AO-15:</b> “On June 22, 2011 and Jan. 11, 2013, personnel from the EPA conducted inspections at the site. During the inspections, EPA personnel identified process wastewater being discharged to the East Twin River:</p> <ul style="list-style-type: none"> <li>• <i>During the June 22, 2011, inspection, EPA observed process wastewater within the Southern Facility flowing into the Main Ditch from the following areas: the Calf Hutches and the Commodity Barn. EPA observed the Main Ditch discharging into the East Twin River</i></li> <li>• <i>During the June 22, 2011 inspection, EPA observed process wastewater from Barns 7 and 8 flowing through a culvert and discharging directly into the East Twin River.</i></li> <li>• <i>During the June 22, 2011 inspection, EPA observed process wastewater from the calf hutches flowing through the central access road that bisected the hutches into an east and west section. The process wastewater then flowed into the North Ditch. The process wastewater discharged from the North Ditch into the East Twin River.</i></li> <li>• <i>During the June 22, 2011 inspection, EPA observed process wastewater from Barn 3 and the bull calf hutches flowing west to a ditch in the tree line. The process wastewater flowed north following the ditch and into a culvert, which flowed into the Main Ditch. The Main Ditch discharges into the East Twin River.</i></li> <li>• <i>During the June 22, 2011 inspection, EPA observed process wastewater from Barns 44, 5, and 6 flowing west to the end of the barns where it then changed direction and flowed north into the Main Ditch. The Main Ditch discharges into the East Twin River.</i></li> <li>• <i>During the Jan. 11, 2013 inspection, EPA observed process wastewater from the Main Ditch, located within the Southern Facility, discharging into the East Twin River.</i></li> <li>• <i>During the Jan. 11, 2013 inspection EPA was informed by Mr. Hall that a buried perforated tile ran the length of the Main Ditch. The tile collected process wastewater within the Main Ditch. EPA observed the perforated tile line discharging process wastewater into the East Twin River.</i></li> </ul> <p>(continued on the next page)</p>

On or About	Description Halls Calf Ranch LLC
	<p>(continued from the previous page)</p> <ul style="list-style-type: none"> <li>• <i>During the Jan. 11, 2013 inspection, EPA observed process wastewater from the Calf Hutch Pad Area flowing into the North Ditch, located on the Northern Facility. EPA observed the North Ditch discharging into the East Twin River.</i></li> </ul> <p>The East Twin River flows directly into Lake Michigan.</p> <p>Respondent shall comply with the requirements set out in WPDES Permit Number WI-0065013-0... If for any reason, Respondent discharges pollutants to waters of the United States, Respondent must visually monitor the discharge, and immediately notify the EPA... must also immediately notify WDNR.</p> <p>Within 30 calendar days of the effective date of this Order, Respondent must provide to EPA a record of the costs Respondent has incurred and will incur to ensure that Respondent's operation is in compliance with the requirements of this Order including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• <i>cost estimates for the design of the storage structure(s) identified in the Waste Storage Plan</i></li> <li>• <i>cost estimates for the construction of the storage structure(s) identified in the Waste Storage Plan"</i></li> </ul>
03.01.13	<p><b>Memo to file from WDNR Agricultural Runoff Management Specialist Danielle Block, Subject: Hall's Calf Ranch – Permit Issuance:</b> "The Hall's Calf Ranch permit has been issued with an effective date of March 1, 2013."</p>
11.22.11	<p><b>Certified Mail correspondence from USEPA to J. Hall, Subject: June 22, 2011 Compliance Sampling Inspection and from the Inspection Report, dated July 5, 2011:</b> "With approximately 4450 dairy heifer replacements and approximately 50 bull calf replacements, Halls is considered a Large Concentrated Animal Feeding Operation based on Federal Regulations...Currently, Halls has not been issued or applied for a National Pollutant Discharge Elimination System (NPDES) permit... Mr. Hall is not a certified livestock manager and he does not have a Nutrient Management Plan for Halls. Although he does conduct visual inspections of the facility daily, no records are kept of these activities."</p>



Photo credit: SRAP

# HEIM'S HILLCREST DAIRY LLC



**Heim's Hillcrest Dairy LLC**  
**E3730 Rock Ledge Road**  
**Algoma, Wisconsin 54201**

**Owner(s) / Operator(s): Lloyd Heim, Scott Heim, Jeremy Heim**

Federal USDA Subsidies 2000-2012: Heim's Hillcrest Dairy LLC - \$ 467,396

Federal USDA Subsidies 2005-2008: Heim's Hillcrest Dairy LLC - \$ 112,617

Federal USDA Subsidies 1995-2000: Lloyd Heim - \$ 91,845

State Assistance 2013: Heim's Hillcrest Dairy - \$ 120,000

Facility Description: Industrial dairy complex permitted to confine approximately 1,134 animals (589 milking and dry cows, 423 heifers, and 122 calves) or approximately 1,283 animal equivalent units under Wisconsin Permit WI-0064131 (last issued 9/24/2010). Liquefied manure and dairy wastewater is currently stored in three waste pits, permitted to contain approximately 9 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. State assistance data is from the Wisconsin Economic Development Corporation Annual Report on Economic Development. Aerial image is from Google Earth ©.

On or About	<p>Description</p> <p>Heim's Hill Crest Dairy LLC</p>
03.12.14	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to Jeremy Heim, Subject: Notice of Noncompliance – Unapproved headland stacking site:</b> “On Feb. 10, 2014, it was brought to the attention of Agricultural Runoff Management Specialist, Danielle Block that Heim’s Hillcrest Dairy (Heim) had headland stacked manure on Field KR-1. Upon review of Department record [sic] and Heim’s Nutrient Management Plan it was discovered that Department approval wasn’t obtained prior to headland stacking.</p> <p>The Department conditionally approved this headland stacking site on Feb.13, 2014.”</p>
11.20.12	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to Jeremy Heim, Subject: Notice of Noncompliance – Compliance Schedule Past Due for WPDES permit No. WI-0064131-01:</b> “The following compliance items are past due: Section 2.5 Runoff Control System – Installation: This section states that plan [sic] and specifications for permanent runoff control were due to the Department for review and approval by Feb. 29, 2012 (extension granted from original compliance schedule date of Dec. 31, 2010.) [sic]</p> <p>Submit plans and specifications by Jan. 30, 2013.”</p>
10.22.10	<p><b>Heim’s Hillcrest Dairy 2010 Annual Report Narrative to WDNR:</b> “In 2010, Heim’s Hillcrest Dairy had a spill event. The event occurred on October 22 at the intersection of Clyde Hill Road and Cedar Valley Road when a manure application truck tipped over.”</p> <p><i>WDNR comment: Spill was estimated at 1,200 gallons.</i></p>
04.15.09	<p><b>WDNR Site Inspection Photo Log, Photo # 0655:</b> “During the construction of the manure storage facility, a spring was discovered. The spring was tiled around the manure storage and out-letted [sic]...”</p>

# KINNARD FARMS INC



**Kinnard Farms Inc**  
**E2669 County Hwy S**  
**Casco, Wisconsin 54205**

**Owner(s) / Operator(s): Lee Kinnard, Maureen Kinnard, Rodney Kinnard**

Federal USDA Subsidies 1995-2012: Kinnard Farms Inc - \$ 643,962  
State Assistance 1999-2004: Kinnard Farms Inc - \$ 156,000

Facility Description: Industrial dairy complex permitted to confine approximately 4,880 animals (3,030 milking and dry cows, 1,850 heifers and calves) under Wisconsin Permit WI-0059536 (last issued 8/16/2012). Liquefied manure and dairy wastewater are currently stored in one waste pit permitted to contain approximately 21 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR), State of Wisconsin Division of Hearings and Appeals, and Kewaunee County Circuit Court. Federal subsidy data is from USDA records assembled by the Environmental Working Group. State assistance data is from records assembled by the Wisconsin Democracy Campaign. Aerial image is from Google Earth ©.

On or About	Description Kinnard Farms Inc.
04.28.15	<p><b>Kinnard Farms Inc. v. Wisconsin Department of Natural Resources, Decision on Respondent-Wisconsin Department of Natural Resources’ Motion to Dismiss by Judge D. Todd Ehlers of the Kewaunee County Circuit Court, Case No: 14-CV-73:</b> “It is well established law in Wisconsin that only final agency decisions are subject to judicial review under Wisconsin Statutes Section 227.53. ...Clearly the Administrative Law Judge’s Decision which the Petitioner in this action seeks to have reviewed by this Court at this time is a non-final decision.</p> <p>When deciding whether this is a non-final or final decision, the convenience of the Petitioner who is seeking to have this matter judicially reviewed now is not the issue. The interest of judicial efficiency rather than a party’s inconvenience require that any judicial review proceeding wait until a decision is final and the party’s substantial rights have been determined.</p> <p>The WDNR in its March 27th Reply Brief suggests a stay of these proceedings and remand back to the Division of Hearings and Appeals to preserve the Petitioner’s arguments and objections while allowing the Administrative Law Judge to supervise the modifications to the Petitioner’s permit required by his October 29, 2014, Decision. I concur that this represents a reasonable and appropriate course of action in this matter at this juncture.”</p>
11.25.14	<p><b>Kinnard Farms Inc. v. Wisconsin Department of Natural Resources, Petition for Judicial Review to the Kewaunee County Circuit Court by Michael Best &amp; Friedrich LLP:</b> “...Kinnard Farms requests that the Court, pursuant to Wis. Stat. § 227.57(4), (5), (6), (8) and (9), provide the following relief:</p> <ul style="list-style-type: none"> <li>• <i>Reverse that aspect of the Order by which DNR ordered that ‘Sections 1.3, 1.3.3, 2 and 3.1.12 be modified to reflect a maximum number of animal units at the facility in addition to current storage requirements.’ (Decision, p. 18.); and</i></li> <li>• <i>reverse any aspect of the Decision that would require Kinnard Farms to monitor groundwater to detect impacts of off-site activity. In particular, the Court should reverse that part of the Decision on p. 18 which requires Kinnard Farms ‘if practicable’ to install at least two well to ‘monitor groundwater quality impacts from off-site landspreading.’ (Decision, p. 18.), and clarify that DNR may not require Kinnard Farms to monitor groundwater at any lanspreading site.”</i></li> </ul>
11.25.14	<p><b>WDNR DHA Case No. IH-12-071, WDNR Secretary Cathy Stepp’s Response to Kinnard Farms Inc.’s Petition for Review by the Secretary or Secretary’s Designee:</b> “Because I believe that the issues in the petition would most appropriately decided [sic] by the courts of this state in proceedings for judicial review, I respectfully decline to grant Secretarial review of the Oct. 29, 2014 decision in the above captioned matter.”</p>
11.18.14	<p><b>WDNR DHA Case No. IH-12-071, Kinnard Farms Inc.’s Petition for Review by the Secretary or Secretary’s Designee by Michael Best &amp; Friedrich LLP:</b> “...Kinnard Farms requests that the Secretary review and immediately suspend the Animal Unit Maximum and the Off-site Monitoring Requirement...”</p>

On or About	<div>Description</div> <div>Kinnard Farms Inc.</div>
10.29.14	<p><b>State of Wisconsin Division of Hearings and Appeals, Case No: IH-12-071, Findings of Fact, Conclusions of Law and Order by Judge Jeffery Boldt:</b>  “Members of the public described what could fairly be called a groundwater contamination crisis in areas near the site. Several witnesses testified that up to 50 percent of private wells in the Town of Lincoln are contaminated and that as many as 30 percent of wells had tested positive for E.coli bacteria. No witness for the dairy or the DNR disputed these numbers. Many public comment witnesses suggested a plausible and even likely connection between the large numbers of CAFO’s in the County and area and well-known problems with groundwater contamination. Numerous witnesses testified credibly and forcefully about the hardship and financial ruin that well water contamination has had on their businesses, homes and daily life.</p> <p>There was something of a “disconnect” between the evidentiary portion of the hearing on the WPDES permit review and the testimony from members of the public that stretched until late in the evening. While there was some support for the Kinnard Farms and the quality of their farming operations, many members of the public were deeply upset about what could only be described as a crisis with respect to groundwater quality in the area. The proliferation of contaminated wells represents a massive regulatory failure to protect groundwater in the Town of Lincoln. The Department needs to utilize its clear regulatory authority to require groundwater monitoring to enhance its ability to prevent further groundwater contamination.</p> <p>Many public witnesses testified under oath credibly and forcefully about the hardship and financial ruin that this local groundwater contamination crisis has had on their businesses, homes and daily life. Several witnesses asserted that in the Town of Lincoln 50 percent of private wells are contaminated and as many as 30 percent of wells had tested positive for E.coli bacteria. It is not unreasonable for residents to see a link to large farming practices in the area. It is more likely than not that some portion of this contamination is from CAFO landspreading in a County where, according to unr-ebutted public testimony, there are more than a dozen permitted CAFO’s and vast areas of its farmland subject to landspreading contracts.</p> <p>The petitioners argue forcefully that, ‘Without groundwater monitoring at Site 2, the only way for the DNR or citizens to detect that Site 2 is causing groundwater contamination is for a neighbor’s well to become contaminated.’ Unfortunately, this has been the all too common state of affairs in the Town of Lincoln and Kewaunee County over the past years. This WPDES permit must be modified to do what is reasonably necessary to protect the drinking water of the residents and further groundwater contamination. While the Department has not previously required groundwater monitoring, it has clear regulatory authority</p> <p>(continued on the next page)</p>

On or About	<div data-bbox="776 100 1179 184" data-label="Section-Header"> <h1>Description</h1> </div> <div data-bbox="808 184 1146 231" data-label="Text"> <p>Kinnard Farms Inc.</p> </div>
	<p>(continued from the previous page)</p> <p>to do so in the context of a CAPO WPDES permit. It is also abundantly clear that the area is “susceptible to groundwater contamination” within the meaning of Wis. Admin. Code§ NR 243.15(3)(2)(a).</p> <p>Further, as DNR permit engineer Ms. Wheat opined, groundwater contamination from Site 2 itself could be “the least of the concerns” of the petitioners. It seems even more likely that further groundwater contamination could come from landspreading.</p> <p>The fact that groundwater monitoring might be difficult-because of the very karst geological features that make the area particularly susceptible to groundwater contamination-must not be used as an excuse not to exercise the DNR’s clear regulatory authority and duty to do so. Rather, such an effort must be undertaken to ensure that there is not further contamination of groundwater under these deplorable background conditions.</p> <p>Further, the Petitioners have established that the WPDES permit is unreasonable because it does not specify the number of animal units allowed at the facility. In support of that contention, Petitioners established that animal units are a common regulatory device in WPDES permitting, that the number of animal units corresponds directly to the amount of waste generated by a CAFO, and that imposition of a cap on animal units is a good idea in this particular case because of concerns over Kinnard Farms’ ability to comply with regulatory requirements directly related to the current permit requirements for 180 day storage capacity. (Exs. 58-59) It is not a question of either/or-the 180 day storage requirement represents a good short term measure to detect an impending problem, but the maximum animal unit number represents a useful longer-term management tool that will ensure that there is not suddenly a mad rush to achieve permit compliance and get under the 180 day capacity threshold. Establishing a cap on the maximum number of animal units will provide clarity and transparency for all sides as to the limits that are necessary to protect groundwater and surface waters. The permit should accordingly be modified by the Department to reflect this <i>additional</i> [Court emphasis] requirement”</p> <p>WHEREFORE IT IS HEREBY ORDERED, the permit issued by the DNR should be modified by this tribunal as follows:</p> <p><u>Production area discharges to waters of the state authorized under this permit shall comply with water quality standards, groundwater standards and may not impair wetland functional values.</u> [Court emphasis]</p> <p>(continued on the next page)</p>

On or About	Description Kinnard Farms Inc.
	<p>(continued from the previous page)</p> <p>IT IS FURTHER ORDERED, that Sections 1.3, 1.3.3, 2 and 3.1.12 be modified to reflect a maximum number of animal units at the facility in addition to current storage requirements.</p> <p>IT IS FURTHER ORDERED, that the Department should review and approve a plan for groundwater monitoring for pollutants of concern at or near the site because it has been demonstrated to be “susceptible to groundwater contamination” within the meaning of Wis. Admin. Code § NR 243.15(3)(2)(a). The plan should be submitted to the Department with 90 days of this Order, and shall include no less than six groundwater monitoring wells, and if practicable, at least two of which monitor groundwater quality impacts from off-site land-spreading.</p>
02.11-14.14	<p><b>A Contested Case Public Hearing challenging provisions of the Kinnard Farms Inc WDNR Permit was held in Green Bay in front of Administrative Law Judge Jeffrey Boldt on behalf of five petitioners represented by Midwest Environmental Advocates.</b></p>
11.14.13	<p><b>WDNR online BRRTS database record:</b> “Broken valve. Soil contamination.”</p> <p><i>WDNR comment: Spill was estimated at 500 gallons.</i></p>
10.03.13	<p><b>WDNR online BRRTS database record:</b> “Hose failure. [County Road S] Dithc [sic] was diked with sand, liquid manure was pumped up, ditch was flushed with water.”</p> <p><i>WDNR comment: Spill was estimated at 400 gallons.</i></p>
05.08.13	<p><b>Correspondence/Memorandum to File by WDNR Agricultural Runoff Management Specialist Jay Shiefelbein, Subject: Summary of Meeting Regarding Kinnard Farms Sand Stacking Area and Mindak Well Contamination:</b> “On May 7, 2013, Department staff participated in a live meeting to discuss the issues regarding Kinnard Farms Inc. (Kinnard) sand stacking area and the recent well contamination of the well that exists at a residence rented by Dave Mindak.</p> <p>Although probably cause exists that the impacts to the well could be from Kinnard, given the assumption of fractured bedrock in the area, and the often unpredictable flow in fractured bedrock, there is a potential for other sources to have either caused or contributed to the contamination of the Mindak well.</p> <p>Given these points, the Department cannot directly link the Mindak well contamination to Kinnard’s sand stacking area.</p> <p>Kinnard Farms will be advised to land apply the sand laden manure or move the stack to another approved location.”</p>

On or About	Description Kinnard Farms Inc.
04.25.13	<p><b>Correspondence from JaNelle Merry, WDNR Bureau of Drinking Water and Groundwater, to Kewaunee County resident Dave Mindak:</b> “On April 16, 2013, I collected water samples from your well in Kewaunee County. Sampling was done because you reported health problems and well water sampling results as unsafe bacteriologically and positive for E. coli, and reported high for nitrates. The cause appears to have been from manure runoff of an adjacent farm field. The State Laboratory of Hygiene reports the following results: ... Bacteriodes-bovine 19,980 gene copies...</p> <p>Due to the high concentrations of bacteria and especially E. coli, the Department of Natural Resources is issuing a drinking water Health Advisory. You are advised not to use this well water for drinking or food preparation and to continue to obtain bottled water, or water from a known safe source, for such uses.”</p>
01.07.13	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to Lee Kinnard, Kinnard Farms Inc., Subject: Notice of Non-compliance – Winter application of solid manure on an unapproved field:</b> “On Jan. 2, 2012 [sic] the Department received complaints regarding land-spreading of manure on a field located. . . in the Town of Lincoln. Upon investigation it was determined that Kinnard Farms Inc. had applied solid manure to field identified as JK-1 in their nutrient management plan (NMP). However, when the Department reviewed Kinnard’s NMP, no information for spreading solid manure during frozen or snow-covered ground on JK-1 was found.”</p>
08.16.12	<p><b>WDNR Permit 0059536 is reissued for another five years to Kinnard Farms Inc.</b></p>
01.05.12	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Lee Kinnard, Subject: Compliance Inspection Summary for WPDES Permit Renewal:</b> “On October 11, 2011, the Department of Natural Resources (Department) conducted a compliance inspection of Kinnard Farms Inc (the farm) for the renewal of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit. The following items were discussed during the inspection or determined through a subsequent file review:</p> <p><b>Satellite Operations:</b> The Theise and Kruswick Farms will be added to the proposed draft permit as satellite operations due to common ownership/management and nutrient management plans. Compliance schedules for evaluations of existing structures will need to be added to the proposed permit.</p> <p><b>Monitoring and Inspection Program:</b> While the farm was able to produce copies of monitoring and inspections completed, there was no monitoring and inspection program found in the permit file which was due 90 days after the permit was issued [Nov. 1, 2006].</p> <p>(continued on the next page)</p>

On or About	Description Kinnard Farms Inc.
	<p>(continued from the previous page)</p> <p><b>Annual Reports:</b> Quarterly reports for 2006 and 2007 were missing from the file.</p> <p><b>Proposed Expansion:</b> The Department has not received the engineering plans and specifications for the proposed expansion. In addition, the environmental analysis questionnaire and proposed project timeline is outdated. This information will need to be updated and submitted for the Department to continue reviewing the proposed expansion.</p> <p><b>Outstanding Notice of Violation:</b> The farm has an outstanding notice of violation for operating satellite operations without permit coverage. The re-issuance of the permit with the satellite operations added will address this issue.</p> <p><b>Based on this information, the farm is considered to be in substantial compliance with the current WPDES permit [WDNR emphasis].”</b></p>
12.28.11	<p><b>Correspondence/Memorandum to File by WDNR Agricultural Runoff Management Specialist Heidi Schmitt Marquez, Subject: Summary of file review for compliance inspection:</b></p> <p><b>“Section 2.1 Livestock Operations – Monitoring &amp; Inspection Program</b></p> <p>A monitoring and inspection program was due to the Department within 90 days of the effective date of the permit (Nov. 1, 2006 effective date). The monitoring and inspection program for livestock operations cannot be found in the facility files, and appears as though it has not been submitted to the Department.</p> <p><b>Section 2.3 Annual Reports</b></p> <p>Land application equipment inspection reports were not found in the files for 2006 and 2007. Quarterly reports were not submitted with the 2006 and 2007 annual reports. It does not appear that the Monitoring and Inspection Program Report was submitted during this permit term...”</p>
12.28.11	<p><b>WDNR online BRRTS database record:</b> “A pipe froze and broke causing manure to spill into the field behind the manure pit. Soil contamination.”</p> <p><i>WDNR comment: Spill was estimated at 5,000 gallons.</i></p>
12.21.11	<p><b>Correspondence/Memorandum to File by WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: CAFO WPDES Permit Renewal Inspection Summary: “Thiese Farm</b> This satellite operation is owned and</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Kinnard Farms Inc.</div>
	<p>(continued from the previous page)</p> <p>operated by the [Kinnard] farm. Manure is commingled with manure at the main farm as needed and covered under the nutrient management plan. Currently, this site is not covered under the permit. It will be added as a satellite operation. There is a small solid manure stacking storage at the farm as well. Previously the farm was storing solid manure in this storage. However, the farm is under enforcement for having this storage overtop the previous year.”</p>
12.02.11	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Lee Kinnard, Subject: Notice of Noncompliance</b> [WDNR emphasis] – <b>Manure Spreading in a Surface Water Quality Management Area:</b> “The Department received a complaint on Dec. 2, 2011 from the Door County Soil and Water Conservation Department regarding land spreading of manure on field DPH-1 in a surface water quality management area (SWQMA) and on saturated soils.</p> <p>The investigation determined that liquid manure was applied on field DPH-1 within 25 feet of the stream and through conduits to navigable waters. In addition, areas of the field were noted to be saturated; not allowing injected manure to be incorporated properly in the soil and in some areas causing pooling of manure.”</p>
10.26.10	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Karl Roovers to Lee Kinnard, Subject: Enforcement Conference Summary:</b></p> <p>“Discussions centered on the circumstances that gave rise to the [Oct. 8, 2010] NOV [Notice of Violation] and actions taken to date to resolve the alleged violations. Forfeitures were discussed, as was referral to the Department of Justice. The Department advised that while it understands the gravity of the circumstances it is disappointed at Kinnard’s slow response to the discharge. Even if immediate family members were unavailable, any one of Kinnards [sic] five managers could have reported and responded to the spill. The Department advised that the manure storage at the Site does not appear to meet Natural Resources Conservation Service (NRCS) Standard 313 Waste Storage Facility. Kinnard’s allegations of excess rainfall causing the spill may have some merit, however, manure was observed to have over topped the walls of the storage, leading the Department to believe Kinnard failed to inspect and empty the storage as needed.</p> <p><b>By no later than Nov. 8, 2010, please provide to me</b> [WDNR emphasis] at the address in the letterhead, your written commitment to remaining [sic] in compliance and steps you will take to do so.”</p>

On or About	Description Kinnard Farms Inc.
10.08.10	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Karl Roovers to Lee Kinnard, Subject: Notice of Violation:</b> “On Aug. 12, 2010, the Department received a complaint of a manure discharge from a manure storage structure at a heifer facility owned by Kinnard. This site has not been identified in the permit application nor has notice been given to the Department concerning the planned change to use the facility.</p> <p>On Aug. 12, 2010, 3:25 p.m., Department staff inspected the Site and observed the manure pit overgrown with vegetation and noted it was obvious that the manure in the pit was stacked well over the walls of the pit, and had been for some time. Liquid manure was observed to have exited the manure pit, flowed into and pooled in a gravel drive area and into the heifer lot, and into the road side ditch. Further, tire tracks were observed in the manure, indicating that Kinnard personnel were aware of the discharge and failed to report and respond to the discharge. On Aug. 12, 2010, 5:07 p.m., Department staff again left a voice message for Kinnard regarding the discharge at the Site. Kinnard failed to contact the Department as requested.</p> <p>On Aug. 13, 2010, Department staff inspected the Site and observed that while the northwest corner of the manure storage at the Site had been cleaned out, manure was observed to be over the height of the pit walls in the majority of the storage. Liquid manure was observed in the ditch and no attempts had been made to clean up the discharge to the ditch at the Site.</p> <p>On Aug. 15, 2010, Department staff inspected the site and observed half of the manure storage to be cleaned out exposing the concrete floor. Liquid manure was observed pooled in the gravel drive and remained in the ditch at the Site. On Aug. 16, 2010, Department staff again sent an email to Kinnard and Mr. Nysse regarding the discharge and requesting a report documenting the discharge and clean up [sic] efforts. Kinnard failed to contact the Department as requested.</p> <p>The Department believes Kinnard to be operating an un-permitted facility and failed to report operation of that facility to the Department, failed to report the discharge of a hazardous substance to the Department and failed to take actions to restore the environment as required. While Kinnard cleaned up the discharge, it was only after the Department inspected the site, but well after Kinnad [sic] was aware of the Discharge [sic].”</p>
08.12-14.10	<p><b>Kinnard Farms Inc. Manure or Hazardous Material Spill Accident Worksheet, Report to WDNR:</b> “Manure was moving over the top of the pit at the Theis [sic] Heifer Facility – owned and operated by Kinnard Farms Inc. Weather conditions added a larger than normal volume of water. This additional water caused the pit to slump and over top [sic] the berms and enter the ditch. Approximately 100 gallons of liquid manure/water entered he [sic] road ditch, while a greater amount entered the heifer yard.”</p>

On or About	Description Kinnard Farms Inc.
08.12.10	<p><b>WDNR Case Activity Report, Initial Complaint Response and Observations, by Conservation Warden Darren Kuhn:</b> “At about 2:51p.m. [WDNR’s Callis] called Warden Kuhn’s cellular phone. Callis advised Warden Kuhn that this particular manure pit was not listed on Kinnard Farm’s permit and therefore if in fact it was being operated by Kinnard Farms it would be a violation of Kinnard Farm’s permit.</p> <p>At about 3:25p.m. Warden Kuhn arrived at the reported manure overtopping site. Just as Warden Kuhn arrived, Warden Kuhn received a phone call from Callis. Callis advised Warden Kuhn that Callis was still unable to get in contact with Lee Kinnard, the owner of Kinnard Farms, but was able to talk to Nathan Nysse, Kinnard Farm’s consultant. Callis advised Warden Kuhn that Nysse confirmed that the heifer lot and manure pit were operated by Kinnard Farms. Nysse further advised Callis that Kinnard Farms was aware of the manure overtopping on Aug. 11, 2010, (the day prior to citizen the [sic] complaint) and failed to report the incident as well as to respond to the over-topping. Warden Kuhn advised Callis that Warden Kuhn had just arrived and that Warden Kuhn would call Callis back once Warden Kuhn evaluates the site.</p> <p>Warden Kuhn observed that the manure pit was overgrown with vegetation. It was obvious that the solid manure in the pit was stacked well over the walls of the pit although it was difficult to see where the walls of the pit were located due to the amount of vegetation. Warden Kuhn did not feel safe walking up to the top of the earthen berm around the pit because Warden Kuhn could not see the concrete walls and did not want to fall into the pit. There was not a fence around the perimeter of the pit. Warden Kuhn could see a considerable amount of liquid visible within the pit. Warden Kuhn believed that the liquid manure was the result of the considerable rain falls [sic] in the near past flushing through the solid manure. Warden Kuhn observed that liquid manure had exited the manure pit at the northwest corner of the manure pit. The liquid manure flowed into a gravel drive area north of the pit and into the heifer lot. The liquid manure was pooled on the gravel drive area.</p> <p>In addition to observing the liquid manure pooled in the drive area, Warden Kuhn also observed tire tracks going through the manure. It appeared to Warden Kuhn that someone, believed to be associated with the farm, drove through the manure that had overtopped the manure pit. These tire tracks indicated to Warden Kuhn that someone knew of the overtopping incident and failed to report and/or clean up the manure. Warden Kuhn observed that some of the liquid manure had flowed west into the tall grass bordering the ditch as well as into the east ditch of Apple Road.”</p>
07.29.10	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Lee Kinnard, Subject: Notice of Noncompliance – Spreading</b></p> <p>(continued on the next page)</p>

On or About	Description Kinnard Farms Inc.
	<p>(continued from the previous page)</p> <p><b>near a Direct Conduit to Groundwater:</b> “The Department received a complaint on July 27, 2010 through the Kewaunee County Land and Water Conservation Department (LWCD) regarding landspreading of solid manure...in the Town of Lincoln, Kewaunee County. Based on information provided to the Department, a number of features identified in [fields] NOW-1 and NOW-2 as well as RWM-1, RWM-2, RWM-3, RWM-4, and RWM-5 have been identified through [sic] as sinkholes. Please review the enclosed maps identifying the location of the features. Under NR 243.14(2)(b)8, manure or process wastewater may not be applied within 100 feet of a direct conduit to groundwater. A sinkhole is considered a direct conduit to groundwater.</p> <p><b>Please submit updated spreading restriction maps for fields NOW-1, NOW-2, RWM-1, RWM-2, RWM-3, RWM-4, and RWM-5 identifying spreading restrictions around the sinkholes as well as any other spreading restriction on the field by Friday, Aug. 13, 2010 [WDNR emphasis].”</b></p>
11.14.09	<p><b>WDNR online BRRTS database record:</b> “Harder ground than anticipated and truck didn’t move fast enough when they started spreading, manure ran off field into the road ditch. Soil contamination.”</p> <p><i>WDNR comment: Spill was estimated at 50 gallons.</i></p>
06.14.99	<p><b>WDNR Facility Contact Form, RE: Manure Pit:</b> “The plan was to construct the pit after the bedrock had been cleared off and a 3 foot liner would be placed on the bedrock after they were satisfied that there was not a problem with the bedrock under the pit. A street sweeper would be used to clean the bedrock and cracks would be filled with grout or concrete before additional work would be done. Wilson and Anderson from DATCP were involved in the design of the facility as well as John Roach.(consultant) [sic]</p> <p>[WDNR’s] DeBaker explained that he had been contacted by [the complainant] about the matter and she had suggested that he attend the meeting, but scheduling conflicts prevented his attendance. At this point the department had no direct authority in the case. The authority fell to the county and DATCP until a permit was needed or there was an indication of failure.”</p>
06.10.99	<p><b>WDNR Facility Contact Form, RE: Well Contamination:</b> “[Complainant] called because she was having problems with her well being contaminated with fecal coliform bacteria. She had dug a new well, but coliform bacteria problems recently developed again. She was in the process of disinfecting the well with bleach (2 gallons). [Complainant] also was concerned because she had heard that a pit was permitted for Kinnard Farms and a hearing was scheduled for the evening of 6/10/99. [WDNR’s] DeBaker explained that he could not attend because of other commitments, but that he also had some concerns over the construction and placement of the pit.”</p>

On or About	Description Kinnard Farms Inc.
03.30.99	<p><b>WDNR Facility Contact Form, RE: WPDES Permit:</b> “John Roach [Kinnard’s consultant] contacted [WDNR’s] DeBaker regarding the Kinnard Permit [sic]: John indicated that Kinnards [sic] were in the process of constructing another barn and once populated it would house 650 head of cattle. With the replacement cattle they would be over permit size. John said that they were also designing a pit to store their manure in. He said that Rock Anderson and Tom Konop were designing a pit for Kinnards [sic] that would be located on the bedrock. He had attempted to find another location and found a suitable location about a mile away in heavy clay, but Kinnards [sic] had elected not to move.</p> <p>DeBaker expressed concern over a pit on bedrock and the concern over the spreading of manure on the shallow bedrock area...</p> <p>DeBaker contacted Tom Konop regarding the pit design. Tom said the plan was 3 feet of clay over clean bedrock and 5 feet on the sides. He had already checked with DATCP engineers on the design and felt it complied with [Section] 313. Kinnard wasn’t very inclined at last they spoke to build the pit because of the cost...”</p>
11.09.95	<p><b>WDNR Facility Contact Form by Mark DeBaker, RE: LCC Meeting:</b> “[WDNR] Specialist DeBaker met with the Kewaunee Land Conservation Committee in regard to the Kinnard Farms case. DeBaker reviewed the history of the case and pointed out a number of problems which have slowed progress in the case. Information has been second-hand for the most part, well contamination problems were sealed before sampling could be conducted, people are reluctant to call the Department for fear of neighborhood conflict and problems with their wells being verified.</p> <p>We also discussed problems with other locations and groundwater contamination resulting from manure application from storage lagoons. In addition, the consultants working on the Kinnard manure management plan are resisting declaring anything unsuitable for winter spreading, and resolving the issue may result in resolution delays.</p> <p>[Redacted] indicated that he lives near Kinnards and was not happy with their manure handling practices. He said that they had spread right through waterways and plowed the whole thing up. He also indicated that application rates were excessive. [Redacted] also indicated that he had observed spreading rates that were excessive. The board seemed to feel that spreading was not being managed well on the farm. [Redacted] also indicated that a heavy dose of manure was spread on the [redacted] farm near a stream, and felt that the stream would be impacted at the next runoff event. Solids had also been removed from the Kinnard holding pit, which reportedly only has room for six days storage at</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Kinnard Farms Inc.</div>
	<p>(continued from the previous page)</p> <p>this point. The pile is located behind the barns and may or may not be a problem.</p> <p>[Redacted] also indicated that groundwater contamination problems at the [redacted] farm resulted from runoff through a culvert to a shallow groundwater area. [Redacted] also commented that he felt the amount of manure being produced by the Kinnard facility would not be properly managed without storage and suggested locating the storage on land remote from the main farm.</p> <p>We discussed the need for a nutrient management plan, and the board was not opposed to the plan, but felt that storage would also be necessary.”</p>
10.26.95	<p><b>WDNR Facility Contact Form by Mark DeBaker, RE: Kinnard Farms [sic]:</b>  “On 7/17/90 [WDNR’s] Tom Tewes responded to a complaint and found heavy runoff from the Dale Kinnard farm located in the south ½ of section 30. (Just south of Kinnard farms). It had been a case of overapplication and runoff to the wetland.</p> <p>On March 4, 1994, the Department also received complaints alleging manure contamination of the wells in the village of Lincoln. The complaint claimed that wells had been contaminated as a result of spreading on the hillside north of the village. The field was being used as a no-till experiment, and winter spreading had been used because it seemed appropriate for winter disposal. Upon notification of spreading problems Kinnards [sic] agreed that the area was not suited for winter spreading, and agreed to refrain from winter spreading in the area and to develop a [Section] 590 nutrient management plan.</p> <p>[Kewaunee County Land Conservation Department’s] Andy Wallander informed us that he had been advised of additional complaints from neighbors in the spring of 1994 (May 17). He had checked out the situation and spoke to Kinnards about citizen concerns with a storage site located on Oak Road that may have eventually discharged to Casco Creek. Andy warned them that the DNR would be asked to investigate the situation if polluted water from their fields continues to pose a threat to the environment.</p> <p>In June of 1995, members of the Land Conservation Committee informed Andy that they had received more complaints regarding manure application to farm lands operated by Kinnard Farms. Andy again contacted them and recommended that a nutrient management plan had been completed [sic].</p> <p>On 10-15-95 Andy informed me that he had once again received a complaint of on [sic] the Kinnard farm. We visited the site on 10/26/95.</p> <p>Mark Schulke informed us that he was working on a nutrient management plan and said that it would be done shortly.”</p>

On or About	<div>Description</div> <div>Kinnard Farms Inc.</div>
06.19.95	<p><b>Correspondence from Kewaunee County Land Conservation Department, County Conservationist Andy Wallander to Kinnard Farms Inc.:</b> “This spring, the Land Conservation Department has received a few phone calls again regarding the application of manure on croplands owned/rented by you. Kewaunee County Land Conservation Committee members have also received calls about the situation. These calls were concerning the amount of manure applied as well as the locations where the applications took place, such as close to road ditches, in grassed waterways and other areas of concentrated surface runoff, shallow soils with sinkhole areas, etc.</p> <p>Back on March 3, 1994, Mark DeBaker (DNR) and I conducted an animal waste complaint investigation on your farm. It’s my understanding that, at that time, the main reason why a Notice of Discharge (NOD) was not issued by the DNR was because you were working with a certified crop consultant and would soon be developing a Nutrient Budget Plan (Manure Spreading/590 Plan) for cropland acres that you were operating.</p> <p>Based on our March 1994 discussions, I’m strongly recommending that a Nutrient Budget Plan (Manure Spreading/590 Plan) be developed by you and your private certified consultant, and be closely followed on your owned and rented cropland acres as soon as possible.</p> <p>Once a Manure Spreading Plan is developed and followed on your owned and rented cropland acres, I’m sure that the public’s legitimate concerns will be greatly reduced.”</p>

On or About	Description Kinnard Farms Inc.
05.17.94	<p><b>Correspondence from Kewaunee County Land Conservation Department, County Conservationist Andy Wallander to Kinnard Farms Inc.:</b> “The specific situation that I’m referring to has been taking place along Oak Road in section 29 of the Town of Lincoln. Manure that is stored/stockpiled while awaiting spreading and incorporation into your crop fields along Oak Road is flowing overland into field areas of concentrated flow. Then the flow heads east through a culvert under Oak Road and along a drainage ditch located on the south property line. Eventually this polluted runoff finds it’s [sic] way into the headwaters of the Kewaunee River (Casco Creek).</p> <p>The LCD has received a few calls from landowners regarding possible threats to water quality in this area. The County Land Conservation Committee has also expressed a growing concern about the impact of polluted runoff on the county’s surface and ground water quality.</p> <p>In the future, by incorporating the manure in this area as soon as it’s applied to the fields, as well as not applying manure in drainage ways, you’ll be able to keep the manure from running off the fields and causing a water quality concern.</p> <p>However, if polluted runoff water from these fields continues to pose a threat to the water quality of the Kewaunee River, I will ask that the DNR make a formal site visit with the intent of issuing a “Notice of Discharge” under Chapter NR243 of the Wisconsin Administrative Code.”</p>
03.18.94	<p><b>Correspondence from WDNR Wastewater Specialist Mark DeBaker to Kinnard Farms Inc., Subject: Animal Waste Complaint:</b> “The inspection was conducted because the Department of Natural Resources had become aware of a number of well contamination problems in the area. It was believed that the problems may have resulted from winter spreading of manure on fields located just north of the residential area of Lincoln.</p> <p>The field in question is owned by Kinnard Farms, Inc.... It was observed that manure had been spread on the fields at a light rate within 100 feet of the adjacent homes, and at a higher rate north of the 100 foot separation distance. The field was sloped toward the residential area at approximately 4% on the south end, and became steeper with outcropping of bedrock at the north end.</p> <p>Taking into consideration the shallow soils located on your field, the fractured dolomite bedrock, the slope of the field, and its proximity to the contaminated wells, I feel that there is a high probability that the winter application of manure caused the well contamination problems. Therefore, I have recommended that you refrain from winter application of manure to the problem area. You indicated that you have a number of alternate sites which are better suited to winter application without the danger of well pollution.</p> <p>(continued on the next page)</p>

On or About	<div data-bbox="764 102 1183 191" data-label="Section-Header"> <h1>Description</h1> </div> <div data-bbox="800 189 1146 233" data-label="Text"> <p>Kinnard Farms Inc.</p> </div>
	<div data-bbox="430 268 932 310" data-label="Text"> <p>(continued from the previous page)</p> </div> <div data-bbox="430 344 1529 491" data-label="Text"> <p>It is my understanding that you will no longer use the field in question for winter spreading, and will develop a nutrient management plan with the assistance of your crop consultant according to the guidelines established in Soil Conservation Service 590 standard.”</p> </div>



When tile lines fail in manure application fields, the ground water can become contaminated with livestock manure.

Photo Credit: Kewaunee Cares

# PAGEL'S PONDEROSA DAIRY LLC



**Pagel's Ponderosa Dairy LLC**  
**N4893 Highway C**  
**Kewaunee, Wisconsin 54216**

**Owner(s) / Operator(s): John T. Pagel**

Federal USDA Subsidies 2000-2012: Pagel's Ponderosa Dairy LLC - \$ 1,140,176  
Federal USDA Subsidies 2009-2012: Coleman Ponderosa LLC - \$ 17,049  
Federal USDA Subsidies 2010-2012: Pagel's Whitetail Properties LLC - \$ 32,027  
Federal USDA Rural Development Energy Grant 2003: Pagel's Ponderosa LLC - \$ 99,950  
State Assistance 1999-2004: Pagel's Ponderosa Dairy - \$ 5,000

Facility Description: Industrial dairy complex currently permitted to confine approximately 5,800 milking and dry cows and 430 heifers under Wisconsin Permit WI-0059374 (last issued 11/1/2010). Liquefied manure and dairy wastewater are stored in one earthen and concrete waste pit, three earthen waste pits and two reception tanks, permitted to contain approximately 40 million gallons. Pagel's nearby Clyde Hill complex (dba Ponderosa Calf Ranch) is currently permitted to contain 2,604 heifers and calves and its wastes are stored in a two-cell waste pit permitted to contain approximately 8.5 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Federal rural development grant data is from USDA. State assistance data is from records assembled by the Wisconsin Democracy Campaign. Aerial images are from Google Earth ©.

On or About	Description Pagel's Ponderosa Dairy LLC
06.03.14	<b>Correspondence/Memorandum to the File from WDNR Agricultural Runoff Management Specialist Danielle Block, Subject: Manure spill:</b> "Pagel had indicated that the manure spill occurred due to a valve malfunction on the manure tanker truck. The spill occurred on County Road F... approximately 1,500-2,000 gallons of manure spilled over approximately 4/10 mile of roadway."
08.21.13	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to John Pagel, Subject: Notice of Noncompliance – Unapproved method of manure application:</b> "On July 25, 2013 Agricultural Runoff Management Specialist, Danielle Block, visited several fields in which a manure application using a traveling spray gun had been used. These fields are identified in their nutrient management plan... Based on field observations and a review of aerial photos, it is likely that the 500 ft. setback from inhabited dwellings that is required when using spray irrigation were not met.  <u>Manure applications using spray irrigation methods are prohibited unless approval is granted by the Department.</u> " [WDNR emphasis]
11.06.12	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Danielle Block to John Pagel, Subject: Notice of Noncompliance – Setback Violations:</b> "This notice is to advise you that the Department of Natural Resources (Department) has reason to believe that Pagel's Ponderosa Dairy (Pagel) is in violation of its' [sic] WPDES permit requirements. On October 31st, 2012 Agricultural Runoff Management Specialists Danielle Block and Jay Schiefelbein visited several fields owned by Pagel's that had recent manure applications. While on site both Block and Schiefelbein observed that a manure application had been applied within 25 feet of a navigable water and a conduit to a navigable water."
11.05.12	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Casey Jones to WDNR Conservation Warden David Allen, Subject: RE: Pagel Spill:</b> "Small accidental spills if cleaned up immediately (whether reported or not) are not violations of a WPDES CAFO permit."
11.03.12	<b>Correspondence from WDNR Conservation Warden David Allen to WDNR Agricultural Runoff Management Specialist Casey Jones, Subject: Pagel Spill:</b> "I received a Hotline [WDNR Spills Hotline referral] on 11/1 (and a follow up Hotline on 11/2 making sure of the documented violation) in reference to Pagel's Ponderosa spilling X [sic] amount of manure in the ditch and cleaning it up. The complainant(s) would like the violation documented and would like a copy of said documentation. I went by today and talked with them and I guess I also need to know what Pagel's permit says is a violation. Manure leaving the field or Manure [sic] leaving the property, etc. What is the definition of a field? Would the road ditch still be considered part of the field?"
10.04.12	<b>WDNR Substance Release Notification Report and online BRRTS database record:</b> "...tank was overfilled causing manure to spill into road ditch and run down to old gravel pit."  <i>WDNR comment: Spill was estimated at 1,000 gallons.</i>

On or About	Description Pagel's Ponderosa Dairy LLC
04.09.12	<p><b>Correspondence from Kewaunee County Land &amp; Water Conservation Department [LWCD] to John Pagel, Subject: Well Abandonment:</b> “You recently purchased cropland in Section 19 in the Town of Pierce. The LWCD has reason to believe that there is an old abandoned well located on this site. Staff from the LWCD will need to field-verify the location of the well. After coming up with a more exact location, the LWCD is offering to enter into a cost-share agreement with you, covering 70% of the costs incurred toward the proper abandonment of the well. It may also prevent wells from other surrounding properties from becoming contaminated in the future.”</p>
02.03.12	<p><b>Correspondence from attorney Michael Bauer, Hopp Neumann Hunke LLP to attorney David Crass, Michael Best &amp; Friedrich LLP, Re: Town of West Kewaunee Proposed Birchwood (County Road F) Manure Storage Facility:</b> “This office represents the Town of West Kewaunee. We do not agree with Pagel’s assertion that it has received all permits and approvals needed for construction and operation of a manure storage facility at its Birchwood site... A WPDES permit modification has not been approved by the WDNR and, therefore, Pagel does not have WDNR approval to operate a manure storage facility at the Birchwood site. In addition, the Birchwood facility requires Kewaunee County approval. ...Pagel has not filed a County permit application, nor paid the required permit fee, nor has a County permit been issued for the Birchwood facility. The Birchwood manure storage also requires Town of West Kewaunee approval. Finally, Section 22 of the Town’s zoning ordinance requires that a building permit be obtained for any change in use of property.</p> <p>In conclusion, Pagel does not have the required permits and approvals required to construct and operate a manure storage facility at the Birchwood site and, therefore, no construction or development of such a facility is allowed at this time.”</p>
05.09.11	<p><b>Email from Kewaunee County LWCD County Conservationist Andy Wallander to WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: Manure Complaint:</b> “I responded to a complaint last Friday...in the Town of west [sic] Kewaunee. The [liquid manure spreading] equipment was never lifted up/shut off as they went through the channel (an intermittent stream). This supposedly caused the liquids to be flushed downstream and into the East Twin River. It appears as though a lot of the channel is also being plowed/planted right through.</p> <p>There were also concerns expressed about groundwater contamination of local wells. The locals said there is shallow bedrock on which a portion of the intermittent stream flows across. We’ve got a GIS hit on a bedrock outcropping in this field. ...a good part of the field is considered to have low groundwater attenuation capabilities. This is probably due to shallow bedrock and/or gravelly subsoils and/or shallow water table at some point in the year. I can’t find this field anywhere in the Ponderosa’s nutrient management plan here at the LWCD.”</p>

On or About	Description Pagel's Ponderosa Dairy LLC
04.04.11	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to John Pagel, Subject: Vegetated Treatment Area for Leachate Collection System:</b> "The Department received the attached photograph taken November 12, 2010 from a citizen concerned with WPDES permitted operations in Kewaunee County.</p> <p>...in reviewing this photograph, there appears to be some channelization of the vegetated treatment area for the leachate collection system. To date, I have not had the opportunity to verify whether or not channelization is occurring in the vegetated treatment area. However, I recommend that the farm inspect the area as part of the current monitoring and inspection program and make any necessary repairs when the weather is appropriate. Please note that channelization of vegetated treatment areas provides a risk for un-permitted discharges from the production area and may be a potential noncompliance issue with the WPDES permit."</p>
03.17.11	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to John Pagel, Subject: Notice of Violation / Written Response Requested:</b> "On Oct 15, 2010, Warden Kuhn received a complaint of manure in the Kewaunee River. Upon investigation, Warden Kuhn determined that manure was running through a tile line outlet on Birchwood Road and into an intermittent stream of the Kewaunee River. It was determined that Pagel's applied manure on the South end of Field TR-1 earlier that week. The manure migrated through cracked clay soils, reaching a previously unidentified tile line and discharging at the tile outlet. Pagel's took immediate action to stop the flow of manure by placing sand dams in the ditch, plugging the tile line, flushing the contaminated area with fresh water and land applying the collected flush water. The Department collected water quality samples with analysis indicating some impacts to the intermittent stream."</p>
11.10.10	<p><b>Correspondence/Memorandum from WDNR Water Resources Management Specialist Mary Gansberg and Agriculture Specialist Adam Scheunemann to WDNR Agricultural Runoff Management Specialists Amy Callis and Casey Jones, Subject: Pagels Ponderosa Dairy Runoff Monitoring:</b> "On Oct. 15, 2010, Steve Surendonk, Adam Scheunemann, and I collected water samples to document a manure release into an Unnamed Tributary to the Kewaunee River from manure applied to fields by Pagels Ponderosa Dairy near Kewaunee in Kewaunee County.</p> <p>Field pH and specific conductivity and lab E-coli and fecal bacteria, total phosphorus, suspended solids, total kjeldahl [sic] nitrogen, ammonia, and BOD concentrations are all significantly elevated in the Unnamed Tributary indicating polluted water. ...contaminants were documented in the Unnamed Tributary and it can be concluded that the manure spreading operation has an impact on the water quality of the Unnamed Tributary and also contributes pollutants to the Kewaunee River and Lake Michigan."</p>

On or About	Description Pagel's Ponderosa Dairy LLC
10.15.10	<p><b>WDNR Substance Release Notification Report [created in 11.30.10]:</b> "Field application of manure to Pagels Field TR-1. The liquid manure some how [sic] got into the field tile and into the river. Manure was in the unnammed [sic] creek from Birchwood Rd. east for about 2 miles."</p> <p><i>WDNR comment: Spill size was estimated as "unknown."</i></p>
11.18.10	<p><b>Email from Pagel's manure management consultant Todd Koss to WDNR Agricultural Runoff Management Specialist Casey Jones, Subject: Manure incident at Pagels Ponderosa:</b> "Around 12.45 pm on November 15-2010 [sic], an injection hose sprung a leak while manure was being injected in field H-4. ...some of the manure left the field edge and got into the grass buffer before the stream and road ditch. No manure ever got into the road ditch or the stream on the east boarder [sic] of the field. The workers promptly used the farms' vacuum tank to suck as much of the manure up as they could. Several loads were hauled from the field and dumped into pit one. After the manure was cleaned up, they spread sawdust on the sight [sic] to soak any residual manure."</p> <p><i>SRAP comment: Spill size was not estimated.</i></p>
10.12.10	<p><b>Email from WDNR Agricultural Runoff Management Specialist Amy Callis to John Pagel and Todd Koss, Subject: Manure Spreading Complaint 10/8:</b> "Hello John – Attached are some messages regarding a manure spreading complaint received by the County Land Conservation Office. I think we've received some other complaints in this neighborhood recently which some of the wardens have responded to. Please ensure you are following your nutrient management plan."</p>
10.04.10	<p><b>Email from WDNR Agricultural Runoff Management Specialist Amy Callis to John Pagel, Subject: Land-spreading complaint, Field WS-8:</b> "Hi John - I understand there was a land-spreading complaint this past weekend on Field WS-8 on Church Road in the Town of West Kewaunee. The warden responded and worked with the employees at the site. Please ensure you, your staff, and any contract haulers are maintaining all of the required SWQMA setbacks and following the nutrient management plan when land applying manure. The hazard restriction map for Field WS-8 shows a waterway through the field and has a 25 foot landspreading setback identified for the manure spreading restriction when injecting or incorporating manure."</p>
12.18.09 and 11.16.09	<p><b>WDNR Compliance Monitoring Checklist, and Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to John Pagel, Subject: Summary of Compliance Inspection for WPDES Permit Renewal:</b> "The feed storage area and associated runoff systems have been modified without Department engineering review and approval. An NOV was issued on 12/2/09. A proposed monitoring and inspection program was due to the Department on July 1, 2005 however no information is available in the file showing the documentation was submitted.</p> <p>(continued on the next page)</p>

On or About	<p>Description</p> <p>Pagel's Ponderosa Dairy LLC</p>
	<p>(continued from the previous page)</p> <p><b>...the farm is <u>not</u> considered in substantial compliance with the current WP-DES permit."</b> [WDNR emphasis]</p>
12.02.09	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to John Pagel, Subject: Notice of Violation / Written Response Requested:</b> "On Sept., 16, 2009, the Department received a complaint of active construction at Pagel's along County Highway C. Ms. Callis drove by the Site on Sept. 22, 2009, and observed a large area disturbed along County Highway C.</p> <p>Various e-mail communications from Sept. 22 to Oct. 15, 2009, occurred between Pagel's and the Department. Pagel's was again advised feed storage and associated leachate runoff controls require Department plans and specifications review prior to construction. Ms. Callis reiterated that those documents had not yet been submitted and construction could not commence until approval is granted.</p> <p>On Oct. 15, 2009 WPS [Wisconsin Property Services], on behalf of Pagel's, submitted as-built documentation for the feed storage and associated leachate runoff controls to the Department. The documentation stated the feed bunker was constructed in September 2008 and the associated leachate runoff controls were constructed in September and October 2009. During a drive-by inspection on October 23, 2009, the Department concluded construction of the feed storage and associated leachate collection system was mostly complete. The Department believes that these construction activities were in violation of the Permit and... Wis. Adm. Code.</p> <p>At this time, the Department will be exercising its enforcement discretion and not request an enforcement conference."</p>
10.29.09	<p><b>Email from John Pagel to WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: RE: Pagel's Ponderosa – Compliance Inspection for Permit Renewal:</b> "Hi Amy... How about Nov. 16th at 9:00 a.m. for the Inspection appointment? Let me know. Thanks, John"</p>
10.02.09	<p><b>Correspondence from WDNR Storm Water Management Specialist Cheryl Bougie to John Pagel, Subject: Notice of Non-compliance:</b> "It now, [sic] has come to the attention of the Department that you have conducted land disturbing activities at your site that were <b>not permitted</b> [WDNR emphasis]: new excavation to construct a vegetated filter system (work conducted along County HWY C.</p> <p><b>All Construction Shall Cease until the Permit is granted for this new expansion area."</b> [WDNR emphasis]</p>
10.12.08	<p><b>WDNR online BRRTS database record:</b> "Valve on manure tanker did not close, started up a hill and leaked manure onto the road and some ran down the ditch into a [landowner's] field."</p> <p><i>WDNR comment: Spill was estimated at 400 gallons.</i></p>

On or About	Description Pagel's Ponderosa Dairy LLC
08.01.08	<b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to a citizen's written public comment, Subject: Response Regarding Comments on the Environmental Assessment for Pagel's Ponderosa Dairy:</b> "The WPDES permit is a water quality permit and does not provide the authority to regulate odor."
07.15.08	<b>WDNR Environmental Analysis And Decision On The Need For An Environmental Impact Statement, authored by WDNR Agricultural Runoff Management Specialist Amy Callis:</b> "The Department has some authority to address odor complaints should they arise."
07.15.08	<b>WDNR Environmental Analysis And Decision On The Need For An Environmental Impact Statement, authored by WDNR Agricultural Runoff Management Specialist Amy Callis:</b> "Generally, the number of cattle in Kewaunee County has increased steadily beginning in 2000. If numerous other projects of this type are proposed in this area there is a concern that the land base available for land-spreading manure could be overwhelmed and would make a number of such projects nonviable, primarily with respect to costs associated with hauling manure long distances for land-spreading."
07.01.08	<b>Email from WDNR Storm Water Runoff Management Specialist Cheryl Bougie to John Pagel, Subject: Construction Site Storm Water Discharge Permit:</b> "I was conducting inspections in the Kewaunee Co area and drove past your construction site (farm expansion) with Conservation Warden Darren Kuhn. We viewed the farm from Ryan Radio Road and CTH C. We noticed that the <b>silt fence</b> [WDNR emphasis] was down near the wetland area and that there was no silt fence installed west of the free stall barns... <b>A vehicle tracking pad</b> [WDNR emphasis] was not installed of Ryan Radio Road east of the free stall barn construction and construction vehicles are utilizing this site as an egress point. Some tracking on the road was noted. This should be cleaned off at the end of each working day per your permit and the ECSWMP [Erosion Control and Storm Water Management Plan]. Please <b>amend</b> [WDNR emphasis] to include a vehicle tracking pad and install one per the amended plan."
05.06.04	<b>Correspondence from WDNR Secretary Scott Hassett to John and Kim Pagel:</b> "On behalf of the Department of Natural Resources, I again commend you for stepping forward to become a Discovery Farm and demonstrating that a cooperative problem-solving approach to environmental challenges makes more sense than bitter and prolonged confrontation.  You are a credit to environmentally responsible farming, a respected leader in the Dairy Business Association and a model spokesperson for agriculture."
04.29.03	<b>Correspondence from John Pagel and Todd Koss to WDNR, Documentation of the Actions Taken on 4/29/03 &amp; 4/30/03 Involving the Manure Leaving the Field on 4/29/03:</b> "1:15 p.m.. Dave checked how the manure hauling was going  (continued on the next page)"

On or About	Description Pagel's Ponderosa Dairy LLC
	<p>(continued from the previous page)</p> <p>on field LH-1B. He discovered that manure was leaving the field in an area by the woods. He took a shovel and began to build a burm [sic] at the edge of the field. He also called Brian to hook on to the field cultivator to work the running manure in. Then he ran back to the farm to get the loader to build a burm [sic] by the creek.</p> <p>3:30 p.m. Silk [sic] fencing was placed on the burm [sic] by the creek and also at the edge of the field where the manure left the field.”</p> <p><i>SRAP comment: Spill size was not estimated.</i></p>
10.04.02	<p><b>Correspondence from WDNR Private Water Systems Section, Bureau of Drinking Water and Groundwater staff George Mickelson and Mark Putra to John Pagel, Subject: Conditional High Capacity Industrial Well Approval, Towns of Casco and West Kewaunee, Kewaunee County:</b> “Based on information in the application, the department is of the opinion that you have been operating a high capacity well system for several years without approval. This approval is issued after the fact for the existing network of wells, this approval does not cover any new wells or pump installations.</p> <p>Based on information in the application, the existing piping and distribution network does not provide adequate backflow prevention. A condition of this approval is that the system be upgraded within 30 days of the date of this approval.</p> <p>Based on the information submitted, the department is of the opinion that none of the existing wells meet high capacity well specifications. Therefore, you will not be able to install pumps in any existing wells that are of 70 gallons per minute or more.”</p>
11.05.01	<p><b>Correspondence from Kewaunee County Land &amp; Water Conservation Department County Conservationist Andy Wallander to attorney Andrew Hanson of Midwest Environmental Advocates, Subject: November 5th, 2001 A.M. phone conversation:</b> “As per our phone conversation this morning, I’m sending this letter to provide you with information about the recent field tile/possible pollution source complaint... Early the following week, Tom Konop, one of our department’s technicians was able to visit the site. Mr. Konop reported to me that at the time of his investigation there was liquid coming from the tile outlet, although it did not have a manure-type odor to it. However, the liquid did not smell like ‘clean’ tile drainage either. Mr. Konop then had a conversation with John Pagel about the tile line. It was agreed that Mr. Pagel would begin to excavate at different locations along the tile line in an effort to find out where the liquid was coming from and what the liquid actually was.”</p>
03.17.00	<p><b>Correspondence from WDNR Environmental Engineer Doris Thiele to John Pagel:</b> “A remaining Department concern is the wetland area west of the second</p> <p>(continued on the next page)</p>

On or About	Description Pagel's Ponderosa Dairy LLC
	(continued from the previous page)  manure storage facility. Several alternatives were discussed which included wetland mitigation and the prevention of additional runoff from entering the wetland. The Department highly recommends that the bank nearest the free stall barns and storage facility be stabilized as soon as possible."
03.16.00	<b>Correspondence from WDNR Agricultural Engineer Gail Puzach and Runoff Management Section's Gordon Stevenson, Subject: Pagel's Ponderosa Dairy Waste Storage Facility:</b> "The plans and specifications cannot be approved... Wis. Admin. Code NR 108.04(5), requires that the plans and specifications be submitted to the Department 90 days prior to commencement of the project's start date. Since these facilities are already in place and being used, the plans and specifications were submitted after construction had commenced and in fact was completed."
12.15.99	<b>Correspondence from USDA NRCS District Conservationist Dave Gruber to John Pagel:</b> "I did a wetland determination on tract 10021 a few weeks back. You since questioned whether the UN [sic] numbered field (wooded) north of the barn was correctly identified as a wetland. The wetland map showed the whole wooded tract as a wetland. I did not change the wetland mapping as fill now covers the area mapped...and I could not check the soils. The wetland designation was left and I showed it as a Converted Wetland Not For Agriculture (CWNA)."
11.16.99	<b>Correspondence/Memorandum to the File from WDNR Agricultural Engineer Gail Puzach, Subject: Plan &amp; Spec. Approval for Pagel's Ponderosa:</b> "[WDNR's] Mark DeBaker was concerned about the fact that this facility is built very close to a wetland. This was an issue that came up during the public hearing process. Since it is already built, it is rather difficult to think that we could have some say in how or where this facility is constructed. Mark mentioned some concern over the tested level of fecal coliform; however, it was undetermined if it came from this site or not. Tom Konop indicated that they were not as close to any wetland as Mark thought....he also mentioned that 'in their county, they have been given permission to fill wetlands in order to construct.' I will draft an approval letter although it should have been done PRIOR to construction taking place."
10.18.99	<b>WDNR file, Pagel's Ponderosa Site Visit 10/18/99:</b> "DeBaker explained that the criteria used on his [manure storage] pit were the same as the DNR would require, and that the DNR plans and specifications review were usually only a formality."
05.29.99	<b>WDNR Facility Contact:</b> "DeBaker contacted Andy Wallander regarding low lever [sic] nutrient runoff in the ditch near the Pagel farm. Wallander informed DeBaker that Pagel had been working under a nutrient management plan which should minimize runoff, but was uncertain as to how well the plan had been followed."
04.15.99	<b>WDNR file, Pagel's Ponderosa Site Visit – Pre-permit:</b> "While the bulk of the operation is contained under roofs, cattle walks between the barns are exposed to the weather. DeBaker explained that runoff from the walkways could result in runoff  (continued on the next page)

On or About	<div>Description</div> <div>Pagel's Ponderosa Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>to the wetlands on either side of the barns. John had indicated that there were no wetlands in the area, and believed that since the areas dried up during the summer, he didn't realize they were even considered wetlands. DeBaker pointed out that the areas were included on the wetland maps and had already been classified as wetlands. As such, they were considered waters of the state and would have to be protected as such.</p> <p>DeBaker cautioned him against filling any of the wetland areas without a permit from the Army Corps of Engineers, and possibly the county zoning office. DeBaker felt that the present runoff controls were inadequate and would need improvement."</p>
10.21.98	<p><b>WDNR Facility Contact Form by Mark DeBaker:</b> "[Complainant] called with usual concerns persisting regarding disposal of manure, and amount to [sic] expansion to expect, where manure was going to be spread. She had myriad questions and wanted to know if I had the answers. Her largest concern at this time appeared to be spillage on the roads, and she was working with the county (Kewaunee) zoning staff."</p>
03.22.96	<p><b>WDNR Facility Contact Form by Mark DeBaker:</b> "John [Pagel] called to get more information on the complaints that I had informed his wife about on 3/21/96. I explained that there had been complaints about his winter spreading and people were worried about the effects of his runoff on the stream. I had visited the site earlier in winter and found considerable discoloration in the ice that had formed after a warm spell, and had taken samples on 3/21/96 to see how bad the runoff was. Conditions were not conducive to runoff so the samples may be the best gage [sic] of how much runoff is occurring during warm weather."</p>



CAFO operators inject liquid manure into manure application fields. When manure is applied above agronomic levels, excess manure can contaminate neighboring waterways.

Photo Credit: Kewaunee CARES

# ROLLING HILLS DAIRY FARM LLC



**Rolling Hills Dairy Farm LLC**  
**N3265 County Road AB**  
**Luxemburg, Wisconsin 54217**

**Owner(s) / Operator(s): Jerome Gaedtke, Kevin Gaedtke, Scott Gaedtke, Wanda M. Gaedtke, Kim Kroll**

Federal USDA Subsidies 1995-2012: Rolling Hills Dairy Farm LLC - \$ 770,928  
State Assistance 2012: Rolling Hills Dairy Farm LLC - \$ 80,000

Facility Description: Industrial dairy complex permitted to confine approximately 2,250 animals (1,172 milking and dry cows, 770 heifers, and 308 calves) under Wisconsin Permit WI-0062707 (last issued 2/28/2012). Liquefied manure and dairy wastewater are currently stored in two metal Slurrystore © structures and two concrete waste pits permitted to contain approximately 13.5 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. State assistance data is from the Wisconsin Economic Development Corporation Annual Report on Economic Development. Aerial image is from Google Earth ©.

On or About	Description Rolling Hills Dairy Farm LLC
10.29.13	<b>WDNR correspondence from Agricultural Runoff Management Specialist Danielle Block to Jerome Gaedtke, Subject: Notice of Noncompliance – Manure runoff from land application site:</b> “On Oct. 21, 2013 a citizen complaint reported a manure runoff incident from a land application site. Danielle Block, Agricultural Runoff Management Specialist, inspected the field identified as KB1 in Rolling Hills Dairy Farm (Rolling Hills) nutrient management plan to confirm the violation. The inspection revealed that applied manure had ran off the intended land application site. The manure left Field KB1 via surface flow to a grassed pathway and cropped field.”
05.07.13	<b>WDNR correspondence from Agricultural Runoff Management Specialist Jay Schiefelbein to Jerome Gaedtke, Subject: Spreading Inquiry on Field H. Van:</b> “On Friday, April 26, 2013, the Department of Natural Resources (Department) investigated a concern of liquid manure application to a field... The site inspection of H. Van confirmed that nutrient application had occurred on a portion of the field that does not appear to be included on the restriction maps that were submitted to the Department. Nutrient application appeared to be greater than 25 feet from the edge of the pond; however, nutrients were applied within 12’ of the ditch which is a direct conduit to the East Twin River. The Department is concerned with the nutrient applications to H. Van when the most recent restriction maps are not on file with the Department.”
01.31.13	<b>2012 WPDES Annual Report prepared by AgSource Laboratories for Rolling Hills Dairy Farm:</b> “The following fields have excess N [nitrogen] applications: DB 1, DB 3, DB 4”
10.14.11	<b>WDNR Substance Release Notification Report:</b> “The small slurry storage overtopped and ran into the ditch and into the grassed waterway to the east of the farm. Overtopping thought to be from to [sic] the rain yesterday and overnight filling the pit. The farm noticed the overflow and shut off pumps to the storage, blocked the culvert, placed straw bales in the waterway and then vacuumed and flushed the ditch and grass waterway. The farm also hauled manure from the tank to draw down the storage levels.”  <i>WDNR comment: Spill was estimated at 2,000 gallons.</i>
05.06.11	<b>WDNR correspondence from Environmental Enforcement Specialist Karl Roovers to Wanda M. Gaedtke, Subject: Enforcement Conference Summary:</b> “...as alleged in the March 23, 2011 notice of violation (NOV).  By no later than May 9, 2011, please provide to me at the address in the letterhead, your written commitment to returning to and remaining in compliance, including steps you will take to do so.”
04.14.11	<b>WDNR online BRRTS database record:</b> “Hole in manure line while pumping manure into the field.”  <i>WDNR comment: Soil contamination. Spill was estimated at 300 gallons.</i>

On or About	Description Rolling Hills Dairy Farm LLC
04.08.11	<p><b>WDNR Memo from Agricultural Runoff Management Specialist Amy Callis to File, Subject: Manure Transfer Request and Spreading Complaint:</b> “On March 30, 2011 at approximately 10:55 a.m. Jerome Gaedtke with Rolling Hills Dairy contacted Callis to request to transfer manure to another storage due to storage level concerns at the Dairy. Gaedtke stated that the slurrystores [sic] at the Dairy were reaching capacity and the fields were not in a condition to be spread on. Gaedtke wanted temporary approval to transfer approximately 500,000 gallons to the Lux Farm storage on Friday, April 1, 2011... Callis provide [sic] verbal approval... Callis contacted Gaedtke at approximately 2:00 p.m. on April 7, 2011. Gaedtke stated that they transferred 500,000 gallons of manure to the Lux Farm the previous week and now were full again. Callis explained that the farm could not spread on fields that were saturated or had high water tables.</p> <p>On April 7, 2011, Callis received a complaint from [complainant] regarding a field at the intersection of CTH F and Church Road in the Town of West Kewaunee, Kewaunee County. [Complainant] stated that Rolling Hills Dairy was laying hose out to spread manure. [Complainant] was concerned about the water table levels in the field because she knew her basement was wet currently. [Complainant] was also concerned about her well if the farm spread with high water table [sic] and was concerned that the farm was going to spread when rain was predicted for the weekend... Callis contacted Nick Guilette, nutrient management plan consultant for Rolling Hills Dairy, at approximately 10:00 a.m. on April 7, 2011. Guilette confirmed that field KB-1 was the only field that matched the description. Guilette determined that approximately 5 acres of the 24 acre field was mapped with a potential for groundwater within 24 inches of the surface... Warden Allen responded to the complaint on April 7, 2011... Allen stated that L &amp; M was on-site for manure hauling and was priming the pumps to start injecting... Allen stated Guilette determined that the water level was too high in a portion of the field and informed the L &amp; M staff where they could and could not spread... Allen stated that he was informed that the farm only had 2” of storage left on-site and this was why they were spreading on fields.”</p>
03.23.11	<p><b>WDNR correspondence from Environmental Enforcement Specialist Karl Roovers to Wanda M. Gaedtke, Subject: Notice of Violation:</b> “On Dec. 9, 2010, Department staff responded to an anonymous complaint of winter manure land spreading on a field just south of N2734 Saint Peters Road, Town of West Kewaunee. Department staff observed ponded frozen manure to have been applied to the field at the above location. Mr. Scott Gaedtke stated that Rolling Hills spread manure on the frozen field because it did not have enough storage to make it through the winter. Department staff explained that it is the farm’s responsibility to make sure it has adequate storage. Mr. Gaedtke stated that he disked in the manure and Department staff agreed that Mr. Gaedtke might have driven through the manure but it had not been incorporated. Mr. Gaedtke stated he would see what he could do about incorporating the manure.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Rolling Hills Dairy Farm LLC</div>
	<p>(continued from the previous page)</p> <p>Department staff directed Mr. Gaedtke to cease all land spreading of manure and Mr. Gaedtke advised that Rolling Hills would not be doing any more land spreading, as the storage is now empty. Department estimates indicate Rolling Hills may have only 4.5 months of storage at the Site, not 180 days as required.</p> <p>Based on the long history with the Site, the Department believes Rolling Hills failed to provide a minimum of 180 days of liquid storage as required, applied liquid manure to frozen ground and allowed the manure to pond at the application site, failed to complete an engineering evaluation as required, failed to submit a written description of the runoff control system, failed to submit plans and specifications for review and approval to permanently correct adverse runoff control conditions, as required. The Department is very concerned with the seriousness of the on-going alleged violations and Rolling Hills [sic] lack of attention to Permit conditions.”</p>
12.09.10	<p><b>WDNR Law Enforcement Case Activity Report, 10-C189-018.ADK, Rolling Hills Dairy – Illegal Spreading of Liquid Manure, Initial Complaint Response:</b> “On Thursday, Dec. 9, 2010, [WDNR] Conservation Warden was on duty patrolling Kewaunee County, WI. Warden Kuhn was dressed in full uniform displaying badge and shoulder patches. Warden Kuhn was patrolling in an un-marked State issued patrol truck. At about 9:05am Warden Kuhn received an anonymous voice message reporting that ‘one of the really big farms’ was ‘piling liquid manure in the field just south of N2734 Saint Peters Road... The complainant advised Warden Kuhn that the farmer had been spreading for the past two days on the frozen ground and that there was ‘manure all over the place.’ ... Warden Kuhn decided to stay at the field for a while to wait and see if the farmer came back to the field. Warden Kuhn needed to identify who was farming the field to determine if the farm was a permitted or non-permitted facility.”</p>
12.09.10	<p><b>[Continuing] WDNR Law Enforcement Case Activity Report, 10-C189-018. BDK, Rolling Hills Dairy – Illegal Spreading of Liquid Manure, Conversation with Scott Gaedtke:</b> “At about 1:25 p.m. Warden Kuhn observed a red pick up [sic] truck drive into the field where the liquid manure had been spread on the frozen field... Warden Kuhn exited his patrol vehicle and made contact with the passenger in the red truck who had rolled the passenger side window down. Warden Kuhn identified himself as a Conservation Warden and verbally identified the passenger as Scott J. Gaedtke... Gaedtke is the son of Jerome Gaedtke who owns Rolling Hills Dairy... Gaedtke confirmed that the liquid manure spread on the frozen field came from Rolling Hills Dairy... Gaedtke stated that Rolling Hills Dairy did not have enough manure storage to make it through the winter. Gaedtke became verbally hostile stating something to the effect of do you think farmers are stupid; the manure was spread so it won’t go anywhere... Gaedtke continued stating something to the effect of what do you want me to do wait until the manure overflows and</p> <p>(continued on the next page)</p>

On or About	Description Rolling Hills Dairy Farm LLC
	<p>(continued from the previous page)</p> <p>goes all over the place. Warden Kuhn explained that it was the farm's responsibility to have enough storage to make it through winter... Warden Kuhn advised Gaedtke that Gaedtke could not continue to spread the liquid manure without first getting approval to do so from the WDNR Agricultural Waste Specialist... At about 1:35 p.m. Warden Kuhn cleared from the field."</p>
04.01.10	<p><b>WDNR online BRRTS database record:</b> <i>SRAP comment: Mechanical valve failure causing a liquid manure spill resulting in soil contamination.</i></p> <p><i>WDNR comment: Spill was estimated at 500 gallons.</i></p>
11.12.09	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Amy Callis to Jerome Gaedtke, Subject: Manure Application on Saturated Soils and near Wetlands:</b> "The Department of Natural Resources (Department) received a complaint on Nov. 6, 2009 regarding manure applications conducted by Rolling Hills Dairy Farm on or near saturated soils and mapped wetlands. As a reminder... Wisconsin Administrative Code, states that 'manure or process wastewater may not be applied to saturated soils.' In addition, Wisconsin Administrative Code, states that 'manure or process wastewater cannot be spread 'within 25 feet of a... wetland' when injecting or immediately incorporating manure. Manure should not be land applied or injected in wetlands."</p>
08.24.09	<p><b>WDNR Memo from Agricultural Runoff Management Specialist Amy Callis to File, Subject: Site Visit at Christoff Farm on July 28, 2009:</b> "Callis met with Davina Bonness and Paul Friedrich with the Kewaunee County Land and Water Conservation Department at the Christoff Farm, heifer satellite operation for Rolling Hills Dairy, on July 28, 2009 to discuss potential runoff concerns related to the evaluation received by the Department from Conestoga-Rovers and Associates (CRA) on behalf of Rolling Hills Dairy on June 20, 2009. Jerome Gaedtke, owner, met briefly near the end of the meeting. The evaluation from CRA of the heifer farm identified resource concerns with the outdoor lots at the farm as well as the feed storage pad. The feed storage pad does not have runoff controls. Leachate from the bunkers flows into the 15-acre outdoor lot. There are a few areas around the bunker where the walls are leaking as well. Leachate collection will be required for the feed storage."</p>
06.30.09	<p><b>Correspondence from Todd Boehne, P.E., Conestoga-Rovers &amp; Associates to WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: Summary of Compliance Inspection for WPDES Permit Renewal:</b> "This letter is in direct response to the request for a status update identifying a number of requested items... An appended note dated Feb. 9, 2006 was included with the record. The note stated that a valve had broken and approximately 2,000-3,000</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Rolling Hills Dairy Farm LLC</div>
	<p>(continued from the previous page)</p> <p>gallons of liquid manure was spilled in a ditch. Timmar Sanitation was called and the spill cleaned up... On Oct. 31, 2007 a spill and clean up along Doell Road was noted; however, no additional written records were available at the time of this letter regarding the incident... On April 22, 2008, a manure transfer hose ruptured at approximately 2:00PM. The volume of manure that was released was not noted on the calendar; however, the record notes that the release was cleaned up by Timmar Sanitation... On June 8 &amp; 9, 2008, the 'middle barn by Cletes' was flooded and pumped out by the Farm... On Dec. 20, 21, and 26, 2008 (respectively) the record notes the following events occurred: North barn at Stangleville collapsed; Old freestall collapsed; and New barn collapsed. Due to these collapses, a number of animals on the Farm were killed or later died of injury... No quarterly reports are available on file at the Farm, and no quarterly inspection reports were completed during the course of the Farm's [5-year] WPDES Permit.</p> <p>As identified in the Inspection Letter, the WDNR requested that a number of the outdoor animal lots used at the Farm be evaluated... <b>15-ACRE HEIFER LOT</b> Although it was noted in the WDNR site evaluation that leachate from the feed bunker appears to flow to the manure storage on the farmstead, evidence of uncollected flow was observed by Mr. Scanlon during his site visit. As such, a portion of the leachate and runoff from the adjacent feed bunker is uncollected and flows across the lot. There is evidence of concentrated surface flow crossing the lot in an easterly direction... Due to the evidence of concentrated flow paths and uncontrolled leachate from the feed bunker, this lot is identified as a resource concern... <b>2-ACRE DIRT LOT</b> Due to evidence of concentrated surface flow paths, and because surface flow from this lot enters an adjacent lot already noted as a resource concern, this lot may also pose a resource concern... <b>10-ACRE BULL &amp; STEER LOT</b> The majority of the lot was poorly vegetated, with the eastern portion and the area surrounding the hay feeders beaten down completely to dirt. There was no vegetated buffer area surrounding the eastern surface water area. Due to the lack of vegetation and presence of multiple, unprotected surface water areas, this lot is identified as a resource concern. In addition, animals directly accessing surface water or wetland areas are not permitted under the Farm's WPDES Permit."</p>
05.06.09	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Amy Callis to Jerome Gaedtke, Subject: Summary of Compliance Inspection for WPDES Permit Renewal:</b> "On April 27, 2009, the [WDNR] conducted a compliance inspection of Rolling Hills Dairy Farm... The following items were identified during the inspection and subsequent file review as needing to be addressed: <b>Feed Leachate Collection System at the Home Farm:</b> The existing feed leachate collection system is discharging to a neighbor's waterway which drains to an unnamed tributary to the East Twin River. This discharge is unacceptable and will need to be corrected prior to permit renewal. <b>Annual Reports:</b> After reviewing the permit</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Rolling Hills Dairy Farm LLC</div>
	<p>(continued from the previous page)</p> <p>drains to an unnamed tributary to the East Twin River. This discharge is unacceptable and will need to be corrected prior to permit renewal. <b>Annual Reports:</b> After reviewing the permit file, no annual reports have been submitted to the Department between 2005 and 2009. <b>Nutrient Management Plan:</b> The Department has not received the 2009 nutrient management plan for the permit renewal to date. <b>Based on the issues identified above, the farm is currently not considered in substantial compliance.</b>” [WDNR’s emphasis]</p>
04.02.09	<p><b>Memo from Amy Callis, WDNR to Andrew Craig, WDNR, Subject: Nutrient Management Plans for Review:</b> “The farm is currently operating under an expired WPDES permit (expiration date 12/31/08).”</p>
05.08.08	<p><b>WDNR Memo from Agricultural Runoff Management Specialist Amy Callis to File, Subject: Manure Spill Complaint – May 1, 2008:</b> “Callis received a call from Warden Darren Kuhn at approximately 12:35 pm on May 1, 2008. Kuhn informed Callis that Kuhn had received a notification through the Spills Hotline of manure in a grassed waterway/ditch. The manure appeared to be from the Rolling Hills Dairy which is owned by Jerome Gaedtke... The area that needs to be cleaned was on [complainant’s] property. [Complainant] is the person who initially contacted the Spills Hotline. Kuhn was having a difficult time getting [complainant] to allow Gaedtke on [complainant’s] property to clean up the grassed waterway... [Complainant] was upset about the past 10+ years of issues between [complainant] and Gaedtke... Callis contacted Kuhn at approximately 1:40 pm to confirm that [complainant] was providing access to Gaedtke to clean up the grassed waterway.”</p>
04.22.08	<p><b>WDNR Substance Release Notification Report and online BRRTS database record:</b> “L &amp; M Industries was contracted by Gaedtke’s Rolling Hills Dairy Farm to pump liquid manure from the Rolling Hills Dairy storage facility through lines onto fields, during the process an eight inch hose broke allowing about 1,000 gallons of manure to be released to the environment. Rolling Hills Dairy contracted Timmar Sanitation out of Denmark [WI] to respond to the scene with a vacuum truck to vacuum up the pooled manure.</p> <p>As soon as the release was discovered, about 2:15PM, Rolling Hills Dairy telephoned Amy Callis the Agriculture Waste Specialist who was out of town. Rolling Hills Dairy notified the Spills Hotline which was too busy to take the report. Rolling Hills Dairy then notified Kewaunee County Lands and Conservation who advised Rolling Hills Dairy to contact Warden Kuhn directly. Rolling Hills Dairy notified Warden Kuhn at about 2:30PM. Warden Kuhn was off duty and unable to respond. On 04/23/08 at about 9:30AM Warden Kuhn responded to the release site and confirmed that the manure had been sufficiently cleaned up.”</p> <p><i>WDNR comment: WDNR identified L&amp;M Industries Inc. as the Responsible Party.</i></p>

On or About	Description Rolling Hills Dairy Farm LLC
10.31.07	<p><b>WDNR online BRRTS database record:</b> “Tractor trailer hauling [liquid] manure lost its breaks [sic] and went into the ditch, tipped over and caught fire.”</p> <p><i>WDNR comment: Spill resulted in roadway and soil contamination. Spill was estimated at 8,500 gallons.</i></p>
04.11.06	<p><b>WDNR online BRRTS database record:</b> “Equipment malfunction-hose blew out”</p> <p><i>WDNR comment: “Potential” groundwater and soil contamination. Spill was estimated at 1,000 gallons. WDNR identified L&amp;M Industries Inc. as the Responsible Party.</i></p>
05.23.02	<p><b>WDNR online BRRTS database record:</b> “Manure spilled out of pipes after pumping onto field.”</p> <p><i>WDNR comment: Soil contamination. Spill was estimated at 250 gallons.</i></p>



CAFO operators often use large “traveling guns” to spray liquid manure onto application fields. This practice is now banned in the Kewaunee County municipalities of Ahnapee, Lincoln, Algoma and West Kewaunee.

Photo Credit: Kewaunee CARES

# SEIDL'S MOUNTAIN VIEW DAIRY LLC



**Seidl's Mountain View Dairy LLC**  
**N5405 Rendezvous Road**  
**&**  
**E745 Luxemburg Road**  
**Luxemburg, Wisconsin 54217**

**Owner(s) / Operator(s): Alan Michael Seidl, Muriel Seidl**

Federal USDA Subsidies 2003-2012: Seidl's Mountain View Dairy LLC - \$ 395,792

Federal USDA Subsidies 1995-2005: Seidl Homestead - \$ 93,393

Facility Description: Industrial dairy complex permitted to confine approximately 1,170 animals (1,100 milking and dry cows and 70 heifers) under Wisconsin Permit WI-0063665 (last issued 10/1/2012). Liquefied manure, dairy wastewater and leachate runoff are currently stored in one two-cell and one single-cell earthen waste pits, permitted to contain approximately 10 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Seidl's Mountain View Dairy LLC
03.25.14	<p><b>Email from WDNR Agricultural Runoff Management Specialist Danielle Block to Seidl's Mountain View Dairy (SMVD) crop consultant Nathan Nysse and Al Seidl, RE: Seidl's Emergency Application:</b> "Thank you for submitting the requested information concerning the proposed emergency winter spreading for Seidl's Mountain View Dairy. This application is conditionally based on the fact that this application is a true emergency situation and Seidl's has explored all other storage options.</p> <p>Please be aware that the current field conditions/seasonal weather patterns are considered to be high-risk factors for runoff. This conditional approval does not remove any liability from you in the event of a discharge to surface water or impact to groundwater/private well."</p>
11.06.13	<p><b>SMVD 2013 WPDES Annual Report to WDNR, Jan. 2014:</b> "A manure hose developed a hole and approximately 300 gallons of manure spilled onto field JD-1"</p>
09.11.13	<p><b>SMVD 2013 WPDES Annual Report to WDNR, Jan. 2014:</b> "A pipe that allows manure to flow from the sand lane into the WSF [waste storage facility] blocked. Approximately 600 gallons of manure flowed from the sand lane into field 3 (alfalfa)."</p>
11.27.12	<p><b>2012 WPDES Annual Report to WDNR, Summary for the Fourth Quarter, Prepared by Roach &amp; Associates LLC:</b> "A booster pump [on manure spreading equipment] burst and a fine mist (100 gallons) was sprayed on the alfalfa field and some on the road. Sand was applied to contain the manure on the road. The sand laden manure was applied to cropland..."</p>
06.07.12	<p><b>WDNR Correspondence/Memorandum to File from WDNR Agricultural Runoff Management Specialist Heidi Schmitt Marquez, Subject: Summary of file review for compliance inspection:</b> "The following is a summary of the review:</p> <p><b>Emergency Response Plan</b> A written emergency response plan should have been developed and available to the Department upon request within 30 days of permit coverage (Dec. 6, 2007, effective date). An Emergency Response Plan was submitted with the 2010, 2011, and 2012 NMP updates...</p> <p><b>Monitoring &amp; Inspection Program</b> A monitoring and inspection program was due to the Department within 90 days of the effective date of the permit (Dec. 6, 2007, effective date). The monitoring and inspection program is on file and was received by the Department on 12/07/2009.</p> <p><b>Annual Reports</b> Annual reports were due by January 31st of each year. Annual reports prior to 2008 in addition to the 2011 report were not found in the files.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Seidl's Mountain View Dairy LLC</div>
	<p>(continued from the previous page)</p> <p><b>Manure Storage Facility – Engineering Evaluation</b> The following was received by the Department: Evaluation of existing manure storage at feed center – received 06/07/2010 (originally due 05/30/2008).</p> <p><b>Runoff Control System – Engineering Evaluation</b> The following was received by the Department: Plans and specs for feed leachate runoff controls – received 06/07/2010 (originally due 08/31/2008).</p> <p><b>Noncompliance/enforcement</b></p> <p>09/27/2011 – Memo: Manure Spreading Complaint Complaint received on 09/01/2011 about overapplication [sic] of manure, pooling of manure, odor, and the number of days manure had been hauled to field. Investigation showed that manure was injected through a waterway in the field, and a hazard/restriction map had not been provided to the [manure] hauler by Seidel.</p> <p>06/28/2010 – Memo: Seidl's Mountain View Dairy–Summary of documents received</p> <p>Note: as of the date of this memo, the NMP on file still does not meet the requirements in Ch. NR 243 and NRCS Technical Standards 590 for nutrient management</p> <p>06/08/2010 – Unfavorable Opinion of Post-Construction for Waste Storage &amp; Transfer at Seidl's Mountain View Dairy, LLC The following items were identified as missing or inadequate for the manure storage pit:</p> <ul style="list-style-type: none"> <li>• There is no description of work done.</li> <li>• Inspection logs are inadequate. Only two date entries were made.</li> <li>• There is no mention of the changes that occurred from the original approval, yet drawing sheet 2 of 10 and other sheets have a significant number of red lines indicating changes had occurred.</li> <li>• Drawing sheet 5 of 10 states that concrete was not used for the agitation pad. A description and drawing of where the agitation pad has been relocated is needed.</li> <li>• A letter dated 06/04/2009 from Michael J. Tiry, P.E., to [WDNR's] Amy Callis states in item #5 that the ramp into the manure storage pond was broken up by heavy equipment and was replaced with gravel. In the ramp's current state, no equipment may be used on this ramp until it is replaced by concrete. This will require a new set of plans and specs to be submitted to the Department.</li> <li>• The inspection log dated 11/10/2008 states that the clay compaction does not meet NRCS 300 [standards]. Without additional information, it is unclear what effect this will have on the clay liner.</li> </ul> <p>(continued on the next page)</p>

On or About	<h1 style="text-align: center;">Description</h1> <p style="text-align: center;">Seidl's Mountain View Dairy LLC</p>
	<p>(continued from the previous page)</p> <ul style="list-style-type: none"> <li>• The inspection log dated 11/10/2008 states that the clay compaction does not meet NRCS 300 [standards]. Without additional information, it is unclear what effect this will have on the clay liner.</li> <li>• Provide documentation of the inspection dates and construction events.</li> </ul> <p>06/01/2010 – Enforcement Conference Summary</p> <ul style="list-style-type: none"> <li>• <b>Unauthorized Manure Storage.</b></li> </ul> <p>05/17/2011 – [WDNR's] Callis sent email notification of violation sent [WDNR Notice of Violation, correspondence to Alan Seidl, dated 05/31/2011], advising immediate action to stop and prevent further runoff into ditch. Seidl contacted Callis to inform her that material had been pushed farther away from the ditch and a small earthen dam was built to prevent runoff.</p> <p>05/19/2011 – Warden Kuhn drove by Seidl's and observed leachate and/or manure from sand was pooling and seeping through dirt pile/berm.</p> <p>05/24/2011 – Warden Kuhn observed unauthorized bedding material stockpiles, and berm was inadequate and failing due to heavy rains. Leachate was running into ditch and pooling behind berm. Seidl said he would try to make the berms larger and use straw bales to prevent runoff.</p> <ul style="list-style-type: none"> <li>• <i>Unauthorized Manure Spreading Activities</i></li> </ul> <p>12/3/2009 – Complaint response and investigation by Warden Kuhn of fields located at NW corner of Luxemburg and Gasche Roads. Warden Kuhn observed frozen pools of liquid manure and manure solids in the field furrows and in intermittent tributary to School Creek that crosses the field. Tracks crossing the intermittent stream indicated heavy equipment had been operated through the waterway. Seidl said he wasn't aware stream was there, and Warden Kuhn advised he would have to remove the manure from the stream. [WDNR Notice of Violation, correspondence to Alan Seidl, dated 05/31/2011]</p> <p>2/02/2010 – Memo: Dec. 3, 2009 Complaint Summary  Department received a complaint from an anonymous caller on 12/3/2009 about manure spreading on fields near the corner of Luxemburg and Gasche Roads.</p> <p>Warden Kuhn investigated and observed that heavy equipment had been operated through a grassed waterway, which is actually a mapped intermittent stream. Frozen pools of liquid manure and manure solids in the furrows of the field were also observed. About one inch of green substance that smelled of manure was visible at the bottom of the stream. It did not appear that the 25 foot buffer was followed, and the stream contained manure from Luxemburg Rd down to Gasche Rd.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Seidl's Mountain View Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>Seidl wasn't aware of the intermittent stream and admitted to injecting manure two days prior on this field. Warden Kuhn informed Seidl that the stream between Luxemburg and Gasche Roads would have to be flushed and manure recovered, and also a dam would be needed to prevent the contaminated water from flowing farther downstream or into the ditch. Dam was created that day and cleanup of the stream occurred the following day (12/4/2009).</p> <p>12/04/2009 – Notice of Noncompliance [NON] with Kewaunee County Animal Waste Storage Facility Ordinance &amp; Wisconsin Administrative Code NR151.07– Nutrient Management.</p> <p>Seidl's did not submit a 2009 NMP.</p> <p>11/04/2009 – Notice of Violation – Chapter 283, Wis. Statutes; Enforcement Conference – November 18, 2009.</p> <ul style="list-style-type: none"> <li>• Monitoring &amp; Inspection Program 03/03/2008 was 90 days after the effective date of the permit, and, as of the date of this NOV, the Department has no record that Seidl's has submitted a monitoring and inspection program.</li> <li>• Nutrient Management Plan As of the date of this NOV the Department has not received an updated NMP for planned land spreading activities.</li> <li>• Annual Reports As of the date of this NOV, the Department has not received a complete annual report for 2008.</li> </ul> <p>09/14/2009 – Status of April 30, 2009, NON and July 23, 2009, Site Visit. As of the date of this letter, the Department has not received: Complete 2009 Annual NMP update meeting NRCS Technical Standard 590 and Chapter 243, Wisconsin Administrative Code. Complete 2008 Annual Report documentation.</p> <p>07/23/2009 – Memo: Site Visit – feed storage and leachate controls.</p> <ul style="list-style-type: none"> <li>• Current leachate collection system is not functioning properly, and leachate is running off via a concentrated flow channel with a tile outlet. The other portion of the feed pad has no collection system and drains in the direction of a waterway.</li> <li>• Roach (of Roach &amp; Associates LLC) plans to apply for EQUIP [sic] funding to assist Seidl's with the costs associated with the proposed changes to the leachate collection system.</li> <li>• Temporary runoff controls need to be installed prior to the addition of more feed until permanent controls can be constructed."</li> </ul>

On or About	<div>Description</div> <div>Seidl's Mountain View Dairy LLC</div>
05.15.11	<p><b>Email from WDNR Conservation Warden David Allen to WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: Seidl's Mountain View:</b> "Drove past Seidl's farm just now and saw they have what looks to be [contaminated] bedding material piled next to Luxemburg Road at the E745 address farm (directly south of the Mountain View Dairy). Anyway the ooz [sic], goo, leachate, manure, etc is draining directly into the road ditch, in fact they have cut a canal to the road ditch to drain said o,g,l,m..."</p>
03.15.11	<p><b>WDNR Correspondence/Memorandum from Nutrient Management Specialist Andrew Craig to Amy Callis and Judy Polczynski (WDNR staff), Subject: Compliance review of Seidl's Mountain View Dairy Nutrient Management Plans (2008-2011 plans) and Annual Reports (2008-2010):</b> "After review, we found several inconsistencies and problems with Seidl's Mountain View Dairy (SMVD) NM plans and Annual Reports submitted to DNR... 2008 and 2009 SMVD Annual reports contain SNAP+ cropping trends reports for 2008 and 2009. These reports do not match up with one another with respect to total liquid or solid manure produced and total liquid or solid manure applied during 2008 or 2009 years. The 2011 SMVD NMP shows the 2009 liquid manure applications were 9.6 million gallons applied to 28 fields. This indicates nearly 3 million gallons and 18 fields were not reported in 2009 to DNR.</p> <p>The 2008 and 2009 gal/acre application rate was twice as much as 2010 and fall manure concentration data in 2009 was greater than fall 2010. The 2009 application rate is, or is likely to be, well above UW [University of Wisconsin] recommendations for corn crops when applicable manure and/or legume credits are calculated. Applying manure at rates above UW recommendations for corn crops is not allowed by NM plan and WPDES requirements.</p> <p>Manure source concentrations used for 2008 and 2009 years in 2011 SMVD [reports] do not match up with actual manure tests collected during same time periods. This is another example of poor reporting and record-keeping and not keeping NM plan up to date with what is actually occurred on each field.</p> <p>2008 Annual report shows 28,696 gal/acre applied on field 1. ...this field shows over applications [sic] of N [nitrogen] above UW recommendations...</p> <p>Annual reports submitted for 2010 and 2009: These reports repeatedly show over applications [sic] of N occurred on several fields (i.e., 1, 4, 5, 20, 23) in 2009 and 2010. No further discussion or documentation is provided within 2009 and 2010 annual reports to support or justify these over applications...</p> <p>Missing SWQMA [Surface Water Quality Management Area] conduits to navigable waters or flow channels: After review, some 2011 Spreading [sic] maps appear to have missing SWQMA conduits or flow channels. Such fields need to be verified</p> <p>(continued on the next page)</p>

On or About	Description Seidl's Mountain View Dairy LLC
	<p>(continued from the previous page)</p> <p>for these features, and maps updated, before next scheduled manure application (e.g., spring or fall 2011). If such conduits are identified, prior manure applications may have been applied in violation of NR 243.</p> <p>Drain Tiles: ...2011 NMP contains tile inspection log showing 15 fields were checked in fall 2010 for tiles. No manure observation was described, implying a tile outlet was visually checked. However, same fields checked are noted with 'N/A' for number of tile outlets on field. Please explain if these fields have or do not have tiles [sic] inlets or outlets.</p> <p>Keeping accurate and up to date records is absolutely crucial for implementation of a NM plan and for showing compliance with WPDES permit requirements. Without such records, it is nearly impossible to [sic] SMVD to demonstrate, or DNR to verify/confirm, what has actually happened on each field in NM plan and also whether the plan meets either annual or rotational based requirements of NR 243 or NRCS 590. Between fall 2008-Spring 2010 [sic], SMVD failed to track or did not adequately track these items within its NMP."</p>
06.18.10	<p><b>WDNR Correspondence/Memorandum to File from WDNR Agricultural Specialist LTE Nick Peltier, Subject: Nutrient Management Plan Field Verification:</b> "...several fields currently in corn had the tillage listed as no-till. Field verification revealed that fields 17, 20, 21, 23, D-1, D-2, and D-3 were tilled prior to being planted with corn. A well was also seen in the southwest corner of field 10 that was not noted on the spreading hazard maps."</p>
12.08.09	<p><b>WDNR Correspondence/Memorandum from WDNR Agricultural Runoff Management Specialist Amy Callis to Al Seidl and SMVD Nutrient Management Planner Chuck Osmond, Subject: Nutrient management plan review:</b> "No private well or community well setbacks are identified on the maps. Maps do not identify soils within 24 inches to apparent water table or mapped bedrock at the time of application.</p> <p>Tile inlets, karst features, etc would be considered potential direct conduits to groundwater. No information is identified on the maps. SWQMA setbacks are mapped for perennial streams; however, there are no SWQMA setbacks identified for intermittent streams, conduits to surface water or wetlands. No maps are present regarding impaired or outstanding/exceptional waters with respect to acres operated by the farm. No information is available in the plan regarding fields with potential ephemeral erosion, reoccurring gullies or concentrated flow channels.</p> <p>No tile line maps or tile information are found in the plan. Maps should identify whether or not fields are tiled; when possible, tile lines should be mapped as well</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Seidl's Mountain View Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>as inlets and outlets. No information is available regarding the unavailable acres for land spreading due to restriction setbacks.</p> <p>No information is available in the plan regarding the phosphorus management at the farm. Since soil tests are currently out-dated [sic], fields need to be treated as over 100 ppm [parts per million] for manure spreading purposes until updated tests can be obtained or no manure can be applied to fields until soils data is updated.</p> <p>No manure sample data is available in the plan. It appears that most fields receive manure in addition to other starter nutrients. No information is available in the plan regarding calibrations of manure spreading equipment.</p> <p>No soil test results are in the plan. Actual lab analysis reports should be included in the plan for any fields with updated soil samples. All fields in the plan need soil test results. Results utilized for the spreading rates are out-dated [sic].</p> <p>No soil test results are in the plan. Actual lab analysis reports should be included in the plan for any fields with updated soil samples. All fields in the plan need soil test results. Results utilized for the spreading rates are out-dated [sic].</p> <p>No information was identified in the plan regarding 590 technical standard response requirements for drainage to subsurface tiles, ponding [of manure] or runoff.</p> <p>Over applications of N were identified on a number of fields on the SNAP Plus print-outs [sic]. Additional information should be included in the narrative explaining the over-application of N and procedures the farm will take to prevent this from occurring in the future.”</p>
04.30.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Mark Seidl, Subject: Notice of Noncompliance:</b> “Please note [WDNR emphasis] that as-built information is required to be submitted for construction projects within <u>60 days off</u> [sic] <u>completion</u>. [WDNR emphasis] To date, I have not received any as-built information for the recent construction of the sand lanes and/or manure storages at the Milking Center.”</p>



When manure tankers overturn, liquid manure spills into roadway ditches and can pollute neighboring waterways.  
Photo Credit: Kewaunee CARES

# SKYLINE BLUE ACRES



**Skyline Blue Acres**  
**E612 County Road BB**  
**Denmark, Wisconsin 54208**

**Owner(s) / Operator(s): Kevin Nysse**

Federal USDA Subsidies 2000-2012: Kevin Nysse - \$ 51,848

Facility Description: Beef cattle feedlot complex permitted to confine approximately 1,400 animals on five concrete outdoor lots under Wisconsin Permit WI-0063410 (last issued 2/13/2012). Liquefied manure is currently stored in one earthen and two concrete waste pits, permitted to contain approximately 2.6 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Skyline Blue Acres
08.23.11	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Kevin Nysse, Subject: Compliance Inspection Summary for WPDES Permit Renewal:</b> “A monitoring and inspection program was to be submitted to the Department 90 days after permit issuance (approximately January 1, 2007.) [sic] No information is on file regarding a monitoring and inspection program submittal.</p> <p>It was noted that the [manure] hauling records were missing a few elements that are required to be recorded under the permit. In addition, after a file review, quarterly reports summarizing inspections for years 2006, 2007, 2008 and 2009 were not in the file.</p> <p>Under the permit, evaluations were to be completed for the liquid manure storage and under barn storages by June 30, 2007. No information is available on file regarding evaluations.</p> <p>Under the permit, evaluations of any outdoor lots associated with the satellite operations were to be completed by June 30, 2007. No information is on file regarding evaluations of outdoor lots.”</p>

# STAHL BROTHERS DAIRY LLC



**Stahl Brothers Dairy LLC**  
**N7518 Tonet Road**  
**Luxemburg, Wisconsin 54217**

**Owner(s) / Operator(s): Lary M. Stahl, Stephen J. Stahl, Tom Stahl**

Federal USDA Subsidies 2002-2012: Stahl Brothers Dairy LLC - \$ 202,200

Federal USDA Subsidies 1995-2012: Lary M. Stahl - \$ 952,829

State Assistance 1999-2004: Stahl Brothers Dairy LLC - \$ 241,000

Facility Description: Industrial dairy complex permitted to confine approximately 1,700 animals (1,400 milking and dry cows, 300 heifers) under Wisconsin Permit WI-0061999 (last issued 8/28/2012). Liquefied manure and dairy wastewater are currently stored in two earthen waste pits permitted to contain approximately 20 million gallons.

Sources: Compliance data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. State assistance data is from records assembled by the Wisconsin Democracy Campaign. Aerial image is from Google Earth ©.

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
04.24.12	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Jay Shiefelbein to Larry [sic] Stahl, Subject: Permit re-issuance status and compliance inspection summary:</b> “On March 30, 2012, the Department of Natural Resources (Department) inspected Stahl Brother’s [sic] Dairy LLC (Stahl Brother’s) [sic] to determine compliance with WPDES permit no. WI-0061999-02-0. At this time, Stahl Brother’s is in substantial compliance with permit requirements and is eligible for permit reissuance.</p> <p>At the time of inspection, most of the feed was stored in bunkers on a concrete pad which drains to a manhole. A manhole brings the feed leachate and runoff to an earthen storage pit that holds the liquids which are manually pumped to Pit 1. Liquids from Pit 1 are used to flush the barns at the Home Farm. The floor and bunker walls appear to be in good condition; however, leachate was noticed outside the southern bunker wall. The manhole that collects the leachate from the feed storage area appears to have been clogged as runoff and leachate was ponded in this area. Haylage is currently stacked south of the existing feed storage area; the feed was placed on plastic and is covered with additional plastic. This practice is not normally employed and was described as a one time occurrence.</p> <p>During the inspection the topic of burning was also discussed. Mr. Larry [sic] Stahl indicated that material would no longer be burned and would be either recycled or placed in the dumpster that is already on site.</p> <p>During the inspection it was indicated that permanent markers were in place at this basin, however, the markers were not observed.</p> <p>There was substantial gully erosion noted in a concentrated flow channel that is at least partially fed by the drainage ditch... the erosion is significant and this area is in need of repair. Based on the significance of the erosion, this area must be repaired and maintained as a permanent grassed waterway.</p> <p>A monitoring and inspection program was due to the Department 90 days (July 2007) after the effective date of the permit. The monitoring program was not present in the file.”</p>
09.21.11	<p><b>State of Wisconsin v. Stahl Brothers Dairy, LLC, STIPULATION AND ORDER FOR JUDGMENT:</b> “Stahl Brothers Dairy, LLC, shall pay a judgment in the amount of \$55,412.32, comprising forfeitures of \$10,000 for the violations described in the complaint, [and including] \$15,000 as restitution... and reimbursement to the Department of Natural Resources of \$24,584.82 in response costs...”</p>
09.21.11	<p><b>State of Wisconsin v. Stahl Brothers Dairy, LLC, COMPLAINT:</b></p> <p>“5. In April 2009, at least 100,000 gallons of manure discharged through a tile line in the sidewall of Stahl Brothers Dairy’s manure storage pit into the Kewaunee River,</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>adversely affecting the river at least 12.9 miles downstream from the discharge point and requiring emergency response action to clean up the spill.</p> <p>6. Stahl Brothers Dairy violated its permit and state law when manure discharged into the environment in April 2009, by failing to construct manure storage pits according to plans and specifications and by failing to submit as-built documentation of construction completed in 2002.</p> <p>24. The Department of Natural Resources received and investigated a complaint of liquid manure in a wetland north of the facility on April 10, 2009, and in the ensuing investigation it was determined that the discharge was through an old tile line that had been in place before the manure storage pit was constructed and that had not been discovered during construction.</p> <p>25. The discharge point for the tile line was near the edge of the wetland referred to in the previous paragraph, which is also the headwaters of the Kewaunee River, which is a navigable waterway.</p> <p>26. On information and belief, the agitator used in the manure storage pit slowly eroded the clay-lined side wall, eventually exposing the tile line and allowing at least 100,000 gallons of manure to escape from the manure storage pit into a navigable water.</p> <p>27. The discharged manure was visible 12.9 miles downstream, degrading water quality 12.9 miles downstream and beyond, reducing oxygen levels at least 7.9 miles downstream, causing elevated levels of ammonia, E. coli bacteria and total phosphorus, killing fish and other organisms that reside in the river, and damaging the fishery and aquatic life in the Kewaunee River.</p> <p>31. Stahl Brothers Dairy did not properly operate and maintain the manure storage facilities, and failed to take adequate corrective action as a result of inspections, so as to prevent the discharge of manure on April 10, 2009</p> <p>40. Water samples and water quality field measurements taken on April 14, 2009, indicated that manure contamination continued to damage the Kewaunee River.</p> <p>41. The slug of manure had moved downstream and was dispersing from the wetland into the main river channel, and was not being adequately contained or removed by the clean-up efforts.</p> <p>43. Stahl Brothers Dairy did not have the proper equipment and was unable to handle the clean-up, and was unable to adequately address the manure discharge to protect the environment.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>44. The Department invoked the state emergency response zone contract to address the need to restore the environment in response to the April 10, 2009, discharge of manure from Stahl Brothers Dairy to the Kewaunee River.</p> <p>45. Clean-up efforts continued on April 16, 2009: The Department hired Veolia Services to pump from Rendezvous Road and Lowell Road beginning April 16, 2009, Veolia also installed containment booms downstream of Lowell Road, and Stahl Brothers Dairy hired contractors to install metal dams at Thiry Daems Road and Tonet Road to try to prevent manure that had accumulated in the wetland from continuing to move downstream.</p> <p>46. Dissolved oxygen field measurements taken on April 16, 2009, indicated that manure contamination was still adversely affecting the Kewaunee River.</p> <p>48. Pumping was halted April 19-26, 2009, due to rain events, and Stahl Brothers Dairy monitored the dams.</p> <p>50. The Kewaunee River overtopped its banks on April 27, 2009, dispersing dead fish along the river banks, and water chemistry samples and dissolved oxygen measurements showed that ammonia and other pollutants remained high in the river.</p> <p>51. The booms that had been installed as part of the clean-up process were removed on May 7, 2009.</p> <p>53. On July 14, 2009, manure remained only in the southern portions of the wetland along Tonet Road.</p> <p>59. Stahl Brothers Dairy failed to install a ramp and agitation pad on each of the two manure storage ponds that were constructed, as shown in the approved plans and specifications, in violation of Condition #1 of the 2002 Plan Approval.</p> <p>60. Stahl Brothers Dairy failed to submit as-built documentation upon completion of construction of the three storage ponds, in violation since 2003 of Condition #10 of the 2002 Plan Approval.</p> <p>62. The Stahl Brothers Dairy discharge of manure in April 2009 resulted in low dissolved concentrations and high ammonia concentrations for at least 17 days after the discharge, likely killing all aquatic organisms at least 7.9 miles downstream from the discharge point in the Kewaunee River.</p> <p>63. The Stahl Brothers Dairy manure discharge impaired fish spawning in the Kewaunee River, caused the loss of a large section of the invertebrate community that</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>comprises food for the fish which resulted in reduced fitness of the remaining fish and affected survival rates, and threatened the Lake Michigan fishery.</p> <p>64. The Stahl Brothers Dairy manure discharge occurred shortly after the annual stocking of many thousands of trout and salmon in the Kewaunee River and before imprinting (in which the fish learns cues that lead them back to the river for spawning) ended, resulting in fewer fish returning to the river, potentially adversely affecting the propagation of future generations of fish critical to maintaining the Lake Michigan fishery, and also requiring the Department to stock Steelhead in other rivers thereby reducing fishing opportunities for Kewaunee River anglers.</p> <p>65. The long-term effects of the 2009 discharge of manure from Stahl Brothers Dairy are presently unknown, but likely include increased nutrient levels in the sediment which may lead to increased algal production and larger more frequent swings in dissolved oxygen, loss if [sic] interstitial spaces in sediment bottoms used by invertebrates, and fewer fish.”</p>
10.28.09	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to Thomas Stahl, Registered Agent Stahl Brothers Dairy, LLC, Subject: Notice of Violation:</b> “...Stahl Dairy has been identified as the person responsible for the release of 100,000-400,000 gallons of manure into the Kewaunee River causing adverse environmental impacts. In order to adequately address the clean-up in a timely fashion, the Department invoked the state contract to assist with activities being performed by Stahl Dairy. The Department paid \$23,209.67 for this expense. The Department also contracted with the Kewaunee County Highway Department to provide and place adequate road signs. The Department paid \$1,375.15 for this expense.”</p>
10.14.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Lary Stahl, Subject: Notice of Noncompliance – Spreading near a Direct Conduit to Groundwater:</b> “The Department received a complaint on October 5, 2009 through the Kewaunee County Land and Water Conservation Department (LWCD) regarding land-spreading on Field 30... in the Town of Red River, Kewaunee County.</p> <p>Based on information provided to the Department, the feature in Field 30 identified on the attached map is considered a sinkhole. In addition, a sinkhole has also been identified in Field 27... in the Town of Red River, Kewaunee County. These restricted features are not identified on the spreading restriction maps in the nutrient management plan on file with the Department. Under NR 243.14(2)(b)8, manure or process wastewater may not be applied within 100 feet of a direct conduit to groundwater under NR 243.03 (20).”</p>

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
03.27.08	<p><b>Email from WDNR Agricultural Runoff Management Specialist Amy Callis to WDNR Conservation Warden Darren Kuhn, Subject: Stahl Brothers Farm – Disposal of Carcasses:</b> “I received a complaint from [complainant] regarding the Stahl Brothers Farm on N7518 Tonet Road. She said that there have been some dead steers on occasion (over the years) dumped in the ravine behind the barn between her property and Stahl’s property. Currently, there is one back there and her dogs are bringing parts home.</p> <p>I contacted Larry [sic] today and asked him about it. He said that dead animals go to the mink farm. He said that one of his newer guys may not have known that and dumped it back there.”</p>
01.18.90	<p><b>Correspondence/Memorandum from WDNR Conservation Warden Thomas Hansen to WDNR Environmental Specialist Tom Tews [sic], Subject: Disposition – Lary M. Stahl – Animal Waste Case:</b> “Attached are the copies of the final disposition reports on the case involving Lary M. Stahl. . . On 1/9/90) [sic], Lary M Stahl plead guilty to two criminal violations of 29/29 (3) (c) for permitting [sic] the deposit of a deleterious substance (animal waste/manure) into state waters. The court ordered him to pay fines plus costs of \$138.00 on each count. The court also ordered Mr [sic] Lary Stahl to follow the Animal Waste Management Plan prepared for his farm operation by Kewaunee County.”</p>
01.05.90	<p><b>Correspondence from WDNR Environmental Specialist Tom Tewes to Lary Stahl, RE: Notice of Discharge &amp; Animal Waste Investigation Report:</b> “This Notice of Discharge is being issued as the result of investigations conducted by the Wisconsin Department of Natural Resources (DNR). During the course of those investigations, information was gathered which lead to the conclusion that animal waste from your Town of Red River farm has contributed to the discharge of pollutants to the waters of the state.</p> <p>Normally the Department of Natural Resources allows a minimum of 60 days for necessary corrective measures to be implemented. In this case, the Department must insist on immediate correction because you have an existing Waste Management System Operation &amp; Maintenance Plan. The most recent plan was provided to you during the month of December of 1988 by the Kewaunee County</p> <p>Land Conservation Department. Since the two incidents of animal waste discharge appear to be in noncompliance with the Waste Management Plan and that plan has been in your possession for more than 60 days, the Department of Natural Resources has elected to require immediate compliance with all provision and conditions of your Waste Management Plan.</p> <p>The first incident occurred on Sept. 26, 1989, when the DNR collected samples of highly polluted water from the marsh area of the Kewaunee River in Section 32 of the Town of Red River. The pollutant was later identified as the animal waste which</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>originated as overflow from the reception and storage manure pits on the Lary Stahl Farm.</p> <p>The second incident occurred on Oct. 23, 1989, when the DNR collected samples of highly polluted water from the Kewaunee River in Sections 32 and 33 of the Town of Red River. The source of the pollution was traced back to animal waste running-off [sic] from a field owned and farmed by Lary Stahl in Section 32 of the Town of Red River.”</p>
11.04.89	<p><b>WDNR Case Activity Report by WDNR Conservation Warden Thomas Hansen, Title: Lary M. Stahl – Manure Discharge:</b> “Warden HANSEN [sic] also received a copy of the ‘Waste Management System Operation &amp; Maintenance Plan for Lary Stahl Farm’ dated 1/23/87 and an updated ‘Waste Management System Operation &amp; Maintenance Plan for Lary Stahl Farm’ dated Dec. 1988. LARY STAHL [sic] had copies of these plans.</p> <p>The plans directed that no more than ½ inch of slurry manure should be applied to the fields which would be the equivalent of 50 ton [sic] per acre. During the inspection of 10/26/89, [Kewaunee County Conservationist] DENNIS FRITZ [sic] observed that LARY STAHL [sic] had emptied the two manure pits on the farm and spread the manure on 53.3 acres. DENNIS FRITZ [sic] advised Warden HANSEN [sic] that to meet the directions in the plan and dispose of the manure, it should have been spread on a minimum of 140 acres.</p> <p>Furthermore, the plans directed LARY STAHL not to spread the manure in any waterway and to incorporate the material into the soil with in [sic] 72 hours of application. Conservation Warden THOMAS WILDA [sic] observed that manure had been spread in waterways on 10/21/89 which discharged into the Kewaunee River wetlands. Aerial photos taken by Warden WILDA [sic] show the application of manure in violation of STAHL’S [sic] plan. Inspection of the STAHL property on 10/26/89 by Warden WILDA [sic] and DENNIS FRITZ [sic] revealed that the manure still had not been worked into the soil as required.”</p>
11.03.89	<p><b>WDNR Investigative Report by WDNR Conservation Warden Thomas Hansen, Title: Manure Discharge to the Kewaunee River – Lary M. Stahl:</b> “On Sept. 25, 1989, Warden Wilda received a citizen’s complaint of manure being discharged into the Kewaunee River system by LARY STAHL [sic]. Investigation into the situation by Warden Wilda on 09/25/89 and by Thomas Tews [sic] on 09/26/89 revealed a manure discharge into the wetlands of the Kewaunee River from the LARY STAHL [sic] property.</p> <p>On Oct. 2, 1989, Conservation Warden Thomas Hansen, Warden Wilda, Thomas Tews [sic] and Kewaunee County Conservationist Dennis Fritz continued the</p> <p>(continued on the next page)</p>

On or About	Description Stahl Brothers Dairy LLC
	<p>(continued from the previous page)</p> <p>investigation into the discharge which occurred on September 24, 1989. The investigation revealed that the manure discharge originated from the farm buildings on the LARY M STAHL [sic] farm located in E1/2, Sec. 32, town of Red River, Kewaunee County. The manure had been allowed to flow into the marshes which form the headwaters of the Kewaunee River. On 10/2/89, Warden Hansen took a signed statement from an adjoining neighbor of LARY STAHL [sic] named [complainant]. [Complainant] stated that he had observed the manure discharging into the wetland area and onto his lawn. [Complainant] had called LARY STAHL [sic] on the phone and complained about the discharge. LARY STAHL [sic] had responded that the manure 'should not be going onto yours, it should be going into the swamp.'"</p>
11.02.89	<p><b>WDNR Case Activity Report by WDNR Conservation Warden Thomas Hansen, Title: Manure Discharge – Lary M. Stahl:</b> "On Oct. 2, 1989, at approximately 1:42 p.m., Conservation Warden Thomas R. Hansen interviewed [complainant] reference [sic] the manure discharge on the Lary M. Stahl property. [Complainant] provided the following statement which he signed.</p> <p>'On Sept. 24, 1989 my kids came into the house and told me that there was manure running into our yard. I went down toward the creek and observed that there was a stream of liquid manure running through Lary Stahl's corn field. Some of it had flowed onto my property. None of the manure appeared to have gone into the swamp yet. So I immediately called Lary Stahl on the telephone (Time: about 3:00 p.m.) and told him that he had shit running into my grass. Lary Stahl responded that 'it should not be going onto yours, it should be going into the swamp'. [sic] He then asked if it was still running. I advised him that 'yes, it still is'. [sic]</p> <p>Lary Stahl responded 'Maybe there is a hole in the wall somewhere because it is pretty full'. [sic] He advised that he was going to go look at it. I then left at about 4:00 p.m. on 9/24/89 to go up north. On Tuesday morning I walked back to the swamp and could not believe how much manure had run into the swamp. It looked like the manure must have been pumped Sunday and all day Monday for the amount there.</p> <p>There was a similar problem during Spring 1988. I noticed manure running across the field behind my house. The manure was following the grass waterway down into the swamp. I followed the grass waterway back to where I could see the manure was coming from Lary Stahl's manure pit. I observed that there was a sump pump set up that was pumping the manure over the wall of the storage pit. It appeared that the manure was being discharged out of a 4-inch pipe.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>I drove over and confronted Lary Stahl with my observation. I asked Lary ‘Do you understand that you have shit running down the creek behind the house and you can’t do that?’</p> <p>Lary responded that he was having problems with his equipment. I told him if it did not stop, I would have someone come out and stop him.</p> <p>He did stop pumping later in the day after several more thousand gallons went into the swamp. The area where the manure collected in the swamp died. The vegetation is still dead in that area.</p> <p>I am very concerned about this discharge affecting my well water. The manure collects only about 75 yards from my well.”</p>
11.02.89	<p><b>WDNR Case Activity Report by WDNR Conservation Warden Thomas Hansen, Title: Manure Discharge – Lary M. Stahl:</b> “On Oct. 11, 1989, at approximately 2:55 p.m., Conservation Warden Thomas R. Hansen interviewed [complainant 2] reference [sic] the manure discharge on the Lary M. Stahl property... [Complainant 2] provided the following statement which he signed.</p> <p>‘On Sunday, Sept. 24, 1989, during the afternoon, [complainant 1] called me and advised that there was manure running on his lawn. I went over and looked at [his] lawn. I observed an area about the size of a pickup truck covered with a dark liquid that looked and smelled like liquid manure. It was coming from the grassy waterway running down Lary Stahl’s field. [Complainant 1] told me that he had called Stahl about the situation.</p> <p>I went back home and called Russ Roden (spelling unknown), the Kewaunee County deputy sheriff, who called Warden Tom Wilda. I called this in to the authorities because I was concerned about this manure getting into the marsh and river where it could kill the fish, ducks and other animals using the water. Also, I was upset over this manure because this has happened in past years (practically every year). The grass and trees are dead in the marsh from a manure spill last year from Lary Stahl and I want to see this stopped.</p> <p>Two years ago, Lary Stahl spread manure on fields southwest of my house. He spread it across waterways (drainage areas) on his property so that it washed down when the rains came. It came down the ditch so thick that it plugged the roadway culverts that drained the area to the creek. I called Lary Stahl on the phone and complained about this manure getting to the creek. Lary Stahl called me ‘a liar’ and he hung up.</p> <p>(continued on the next page)</p>

On or About	Description Stahl Brothers Dairy LLC
	<p>(continued from the previous page)</p> <p>The last spring I had rented 27 acres adjacent to Lary Stahl's farm. He had spread manure on his fields so thick that it ran onto this 27 acres and caused the ground to soften up so I cut ruts up to 1 foot deep in the ground. The hay did not grow very well and my cows would not eat it because it stunk so much.</p> <p>I would like to see this spreading of the liquid manure controlled so it does not get into the creek, adjoining wetlands or on my property.”</p>
11.02.89	<p><b>WDNR Case Activity Report by WDNR Conservation Warden Thomas Hansen, Title: Manure Discharge – Lary M. Stahl:</b> “On Oct. 11, 1989 at approximately 1:45p.m. Conservation Warden THOMAS R. HANSEN [sic], Conservation Warden THOMAS P. WILDA [sic], DNR Water Management Investigator MIKE RUSSO [sic], and Kewaunee County Conservationist Dennis Fritz contracted LARY M. STAHL [sic] at his farm in the E1/2, sec. 32, town of Red River, Kewaunee County.</p> <p>Warden HANSEN [sic] advised LARY M. STAHL [sic] that they were investigating the discharge of liquid manure that had originated from his (STAHL'S) [sic] buildings and flowed into the waters of the Kewaunee River. LARY STAHL [sic] stated that a relay switch had broken which prevented the manure from being pumped from the receiving pit in the barn into the manure pits. This resulted in the receiving pit overflowing which permitted the manure slurry to flow down the grassy waterway into the wetlands of the Kewaunee River.</p> <p>Warden HANSEN [sic] advised LARY STAHL [sic] that this was a serious matter, because the manure was going to get into the Kewaunee River. Warden HANSEN [sic] informed LARY M. STAHL [sic] that he (STAHL) [sic] would be receiving a citation for allowing the discharge or spill to get into the marsh which is part of the Kewaunee River. Warden HANSEN [sic] pointed out to LARY STAHL [sic] that he had ample opportunity to block the waterway after the spill occurred and stop the flow into the wetland, but STAHL [sic] had not attempt [sic] anything in the way of preventing the manure from getting to the river.”</p>
10.20.89	<p><b>WDNR Complaint or Information Record by WDNR Environmental Specialist Tom Tews [sic], Violation: Manure running into the Kewaunee River:</b> “Complainant [sic] stated that manure is going directly into the Kewaunee River again from the Lary Stahl Farm. Complainant [sic] again showed me where the manure was running on his property [sic]. There were puddles of it. It was as bad or worst [sic] than on 9/25/89. Lary Stahl was in the process of pumping the manure on his property to the North of his farm buildings. You could see from the road that the manure was being applied so thick that it was running down the hill in a stream of liquid manure and it was running into the Kewaunee River watershed. I took several pictures.”</p>

On or About	Description Stahl Brothers Dairy LLC
10.19.89	<b>WDNR Exhibits, Incident Report of contacts by Kewaunee County Conservationist Dennis Fritz:</b> “Stopped at farm 8:30a.m. First went to machine shed to talk with Lary. From partly across the shed I saw Lary. His look at me and his walking gestures sent a message to me I best not try to talk with Lary. Two other people I did not know were also working with Lary. I did not confront Lary. I backed out of the shed. The manure pits were pumped down to 3 ft. below the dike tops. I left the farm right after I checked the pits. Talked with Harold Reckelburg – updated the situation with Lary to Harold. Expressed my concern about harm to our staff or myself. Harold said not to go out there and get myself hurt.”
10.13.89	<b>WDNR Exhibits, Incident Report of contacts by Kewaunee County Conservationist Dennis Fritz:</b> “9:00 a.m Lary was agitating the ponds, this could be a day or so long so all solids are mixed into a slurry. Agitation is essential for proper pit management. Saturday he would start spreading waste on the chisel plowed fields. I cautioned Lary on proper waste application rates and the needs [sic] to work the waste into soil. His comment ‘I know more about spreading waste than all of you will ever know!’ Again I cautioned on proper waste utilization.”
10.02.89 to 10.15.89	<b>WDNR Investigative Report by WDNR Conservation Warden Thomas Hansen, Title: Lary M. Stahl – Illegal Dredging (Without a Permit):</b> “On Oct. 2, 1989, Conservation Wardens THOMAS R. HANSEN [sic] and THOMAS P. WILDA [sic] located a pond dredged or dug below the ordinary high water mark of the Kewaunee River. This pond was located on property belonging to LARY M. STAHL [sic] in the E1/2, Sec. 32, town of Red River, Kewaunee County, Wisconsin. Portions of the dredge spoils had been deposited below the ordinary high water mark in a cattail wetland which is part of the Kewaunee River. On Oct. 11, 1989, Wardens HANSEN [sic] and WILDA [sic] inspected the pond area with DNR Water Management Investigator MIKE RUSSO [sic] and with LARY STAHL [sic]. MIKE RUSSO [sic] determined that the pond and portions of the spoil were below the ordinary high water mark of the Kewaunee River and no permit had been issued. MIKE RUSSO [sic] advised that the Kewaunee River is a navigable waterway of the State of Wisconsin and a permit would have been required under sec. 30.19 to dig the pond and another permit would have been required under sec. 30.12 Wisconsin Statutes to place the spoils below the ordinary high water mark. Citation # J30415 was issued to LARY M. STAHL [sic] for illegal dredging contrary to sec. 30.19 WI Statutes and he was ordered to remove the spoil material from the wetland before Jan. 15, 1989 [sic].”
10.02.89	<b>Correspondence from Kewaunee County Conservationist Dennis Fritz to WDNR Conservation Warden Thomas Hansen:</b> “On Oct. 2, 1989, we visited the Lary Stahl farm with [WDNR Environmental Specialist] Tom Tewes and Tom Wilde. This letter is a report of our visit. The reason for our visit was to find the source of animal manure which was entering a nearby wetland. The animal waste handling system at Lary Stahl’s dairy barn was determined to be the source of the manure.  (continued on the next page)

On or About	<div>Description</div> <div>Stahl Brothers Dairy LLC</div>
	<p>(continued from the previous page)</p> <p>The reception pit was about half full of manure. This manure did not have much water mixed with it. We saw evidence of manure which had overflowed from the reception pit and run out over the land. This is one of the sources of manure that is flowing over the fiels [sic] and into the wetlands and across a neighbor's yard about a half mile away.</p> <p>Both manure storage ponds were filled to the top of the earth dikes, when they should have been at most three to four feet below the top. The manure in both storage ponds looked dry, as though the water had been pumped out and not returned to the ponds. Also there was a small repair to the western-most dike on the smaller pond. There was evidence of manure that on an earilier [sic] date ran over the top of the dike."</p>
09.26.89	<p><b>WDNR Facility Contact Form by WDNR Environmental Specialist Tom Tewes, Larry [sic] Stahl Farm:</b> "I followed the manure trail from the [complainant's] lawn into the marshy area that is the Kewaunee River headwaters. Because of the drought, there is little water in the marsh but I did find standing water. I also found pools of manure/water. I also noted large areas of dead vegetation, possibly from previous discharges. Collected samples and took photos. Met with [WDNR Assistant District Director] Dave Hildreth in the p.m.</p> <p>I told Dave that I believe this may have been a deliberate discharge and requested L.E. [law enforcement] assistance for possible issuance of a 29.29 citation. Dave gave permission to continue investigation with a wardens [sic] assistance."</p>
05.08.89	<p><b>WDNR Complaint or Information Record by WDNR Environmental Specialist Tom Tewes [sic]:</b> "I talked to a [sic] area farmer and a person living in the area. They showed me where the manure runs into the waterway. It was very thick and you can still see the manure from last Spring. I took several pictures and gave them my card and advised them to call right away if they see it happening again this year. They state that Stahl does not give a dam [sic] and will do it again. They state that the water is polluted from all the manure and that the ducks and birds and northern pike use the waterway. 'NOTE' Stahl can be a very nasty person from what I have been told.' [sic]"</p>
05.08.89	<p><b>WDNR Case Activity Report by WDNR Conservation Warden Thomas Hansen, Title: Manure Discharge – Lary Stahl:</b> "According to DNR Complaint or Information Record # E04835, Conservation Warden THOMAS P. WILDA [sic] received a complaint on 05/08/89 at approximately 9:30 am which read: 'That last year in the spring he (LARY STAHL) [sic] pipes the manure onto the field in sec 32 and lets it run for hours. It hen [sic] goes into a waterway which runs into the Kewaunee River.'</p> <p>(continued on the next page)</p>

On or About	<div data-bbox="730 102 1159 186" data-label="Section-Header">Description</div> <div data-bbox="730 186 1172 235" data-label="Text">Stahl Brothers Dairy LLC</div>
	<p data-bbox="391 268 878 308">(continued from the previous page)</p> <p data-bbox="391 344 1516 420">This discharge of manure into the Kewaunee River originates from the LARY STAHL [sic] farm in sec. 32, T25N – R23E, town of Red River, Kewaunee County.</p> <p data-bbox="391 455 1516 567">According to Record # E04836, Warden WILDA [sic] talked to an area farmer and other person living in the area. They showed him an area where thick manure could see be seen [sic] from last spring (1988).”</p>



When manure piles are left uncovered, they can leach manure into neighboring waterways and threaten drinking water sources.  
Photo Credit: Kewaunee CARES

# STAHL FARMS



**Stahl Farms**  
**E389 Luxemburg Road**  
**Luxemburg, Wisconsin 54217**

**Owner(s) / Operator(s): Glen Stahl, Greg Stahl**

Federal USDA Subsidies 1995-2012: Glen Joseph Stahl - \$ 890,256  
WI Targeted Runoff Management Grant (Stahl Barnyard Project, Fiduciary: Kewaunee County Land & Water Conservation Department) 2005 - \$ 12,630

Facility Description: Industrial dairy complex permitted to confine approximately 1,250 animals (800 milking and dry cows, 300 heifers and 150 calves) under Wisconsin Permit WI-0062332 (last issued 10/03/2011). Liquefied manure and dairy wastewater are stored in three earthen waste pits, permitted to contain approximately 12.4 million gallons.

Sources: Compliance and grant data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Stahl Farms
02.17.10	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to Glen Stahl, Subject: No Further Enforcement Action:</b> “On Sept. 22, 2009 the Department of Natural Resources issued a Notice of Violation (NOV) to Glen Stahl doing business as Stahl Farms (Stahl) for being in violation of the wastewater discharge permit by having a discharge from the animal production area. As a result of the violation, Stahl Committed to: Placing an 18” long concrete plug in the 12” diameter HDPE pipe discharging leachate into the manhole that presently allows overflow from the floatate trap to discharge into waters of the State. It is hoped that this demonstration of environmental stewardship continues into the future. The Department will take no further action on the violation...”</p>
09.22.09	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne Van Grinsven to Glen Stahl, Subject: Notice of Violation:</b> “On Aug. 20, 2008, Amy Callis, Department Agricultural Runoff Management Specialist, conducted a compliance inspection at the Site. A leachate collection system on the northeast corner of the feed storage pad collects the leachate and runoff in a concrete structure. The first flush [of rainfall] is directed to a sump and then pumped to storage with a float pump. The excess is directed into a manhole and then piped to the road ditch, to a culvert under the road and into a grassed waterway. There was a tile inlet after the road culvert in the waterway where the dilute leachate was directed to. The tile inlet was identified as being a direct conduit to waters of the State, namely, an intermittent tributary of School Creek.</p> <p>Ms. Callis indicated that the grassed waterway was not an appropriate best management practice (BMP) for the dilute leachate and needed to be corrected immediately. This information was reiterated to Stahl under correspondence dated September 12, 2008.”</p>
08.17.09	<p><b>Correspondence/Memorandum to File from WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: EQUIP [sic] Meeting on August 13, 2009 – Summary:</b> “Stahl stated that he was having problems with water not draining away from under the feed storage pads which was causing heaves in the pad... Stahl indicated that the feed storage area would be repaired when milk prices got better. The feed pad had a lot of liquid leachate and waste feed... The group then walked to where the outlet was in the road ditch. There was some liquid on both sides of the road culvert.”</p>
04.06.09	<p><b>Correspondence from WDNR Agricultural Runoff Management Specialist Amy Callis to Glen Stahl, Subject: 2008 Annual Report Review:</b> “The following items were not received in the 2008 Annual Report: No quarterly reports were included with the submittal. No information was found in the report identifying how the farm conducts calibrations of land spreading equipment nor information on the actual inspections and calibrations of land spreading equipment used in 2008.”</p>
04.02.09	<p><b>WDNR Correspondence/Memorandum from WDNR Agricultural Runoff Management Specialist Amy Callis to Andrew Craig, Subject: Nutrient Management</b></p> <p>(continued on the next page)</p>

On or About	Description Stahl Farms
	<p>(continued from the previous page)</p> <p><b>Plans for Review:</b> “The farm is currently operating under an expired WPDES permit (expiration date 6/30/08). I have completed a compliance inspection last year and determined the facility to not be in substantial compliance. I have not determined whether or not enforcement is needed at this time.”</p>
08.20.08	<p><b>WDNR CAFO WPDES Compliance Report:</b> “A small amount of leachate was pooled outside of the collection area where there was a slight dip in the concrete pad. This area was identified as a potential concern where leachate could by-pass the collection system... The manhole for the excess leachate appeared to have overtopped at some point in time as the vegetation around it was dead. Stahl was informed that this could be a potential concern as it might indicate a plug in a transfer line.</p> <p>There was a tile inlet after the road culvert in the grassed waterway where dilute leachate was directed to. The tile inlet was identified as being a direct conduit and discharge to waters of the state and is required to be removed.</p> <p>The second manure storage pit is located directly south of the parlor barn and was constructed in 1982. An evaluation of this structure was required; however, there is no clear information in the file regarding the evaluation.</p> <p>The reception pit for the barns is located to the east of the freestall barn. There was some evidence of overtopping in this area which was identified as needing to be cleaned up and better maintained.</p> <p>The 1982 earthen manure storage appeared to be operating above the margin of safety and maximum operating level. This was identified as a concern. There appeared to be a lot of solids built up on top of the pit. There was evidence along the southeast edge of the storage of a historical overtopping or [a] leak in a hose. The berm between the two stage manure storage showed evidence of overtopping from stage one to stage two. Stahl indicated that the pipe between the two pits gets plugged sometimes and that it then overflows into stage two over the berm. There was evidence of areas where the wall of the berm was beginning to channelize. This was identified as a major concern as it could impact the integrity of the manure storage.</p> <p>There is evidence of channelized flow between the stacking pad and berm of the pit. This was identified as a concern for the integrity of the manure storage berm and an area that would require an evaluation.</p> <p>None of the storage structures has [sic] markers identifying the margin of safety, maximum operating level, or 180 days of storage. These need to be installed.</p> <p>(continued on the next page)</p>

On or About	Description Stahl Farms
	<p>(continued from the previous page)</p> <p>Stahl identified that the farm owns 315 acres, rents 550 acres, and does manure application but no cropping on approximately 300 acres.</p> <p>Callis was unable to find evidence in the file of the evaluation for the 1982 manure storage pit.”</p>
08.20.08	<p><b>Stahl Farms – Inspections Notes:</b> “Transfer line on east side of east barn broke allowing manure to flow into the water way [sic] adjacent to the barn. Mr. Stahl said he would immediately fix the problem and clean up the manure.”</p> <p><i>SRAP comment: Spill size was not estimated by WDNR.</i></p>
01.25.06	<p><b>State of Wisconsin, Plaintiff, Scott and Judy Treml, individually and on behalf of their children, Kaitlyn Treml, Emily Treml and Samantha Treml, Intervenor-Plaintiffs v. Glen Stahl, d/b/a Stahl Farms, Case No. 04-CV-121, Stipulation and Order for Judgment by Kewaunee County Circuit Court Judge Dennis J. Mleziva:</b></p> <p>“4. The Court shall order the entry of judgment against Defendant Stahl requiring the Defendant to pay forfeitures, surcharges, fees and costs totaling \$100,000.</p> <p>5. The above-described forfeitures, surcharges, fees, and costs payments shall be reduced to a total sum of \$50,000 if defendant Stahl performs all of the following agreed upon requirements listed in this paragraph and paragraphs 6 through 8.</p> <p>7. The Defendant further agrees to construct and operate the storm water and manure control facilities and improvements outlined in the Compliance Schedule set forth in Exhibit A. All work is to be completed in strict compliance with the time deadlines set forth therein.</p> <p>8. All submittals to the DNR by defendant Stahl required by the attached Compliance Schedule shall also be contemporaneously submitted to the intervening party’s counsel. Intervening party’s counsel shall have 30 days from the date of postmark of such submittals to provide to the DNR written comments regarding the submissions. The DNR shall not approve, conditionally approve or reject the activities outlined in any of defendant Stahl’s submittals until the intervening party’s 30 day review period has passed. Although the DNR will take into consideration any written comments submitted by the Tremls, neither the DNR nor defendant Stahl are required to adopt, approve or accept the intervening party’s comments or requests. The DNR shall have 90 days from the date of defendant Stahl’s submittals to either approve, conditionally approve or to reject the submittal.</p> <p>(continued on the next page)</p>

On or About	Description Stahl Farms
	<p>(continued from the previous page)</p> <p>10. Defendant Stahl shall immediately comply with the requirements of the proposed “Liquid Manure Winter Restrictions” as outlined in the attached Exhibit B and set forth in the proposed Chapter NR 243, Wis. Admin. Code, and specifically at §243.14(7) and table 5.</p> <p>11. Defendant Stahl shall also maintain a 50 foot upgradient setback distance from any vent pipe for the spreading of any manure on property identified in Stahl’s WPDES permit as the Lelou Field.</p> <p>12. Defendant Stahl shall not spread manure on the property identified in Stahl’s WPDES permit as the Wachal field between Dec. 1 and April 1 of each year.”</p>
12.11.05	<p><b>WDNR online BRRTS database record:</b> “Clamp came off manure transfer pipe”</p> <p><i>SRAP comment: Discharge to a road ditch and onto a neighboring property.</i></p> <p><i>WDNR comment: Spill was estimated at 30,000 gallons.</i></p>
11.11.04	<p><b>WDNR online BRRTS database record:</b> “Valve left open or PTO shaft left on – manure flowed out” resulting in “Impacts” to “Concrete/Asphalt” which was “Contained/Recovered.”</p> <p><i>WDNR comment: Spill was estimated at 30 gallons.</i></p>
09.04	<p><b>State of Wisconsin v. Glen Stahl, d/b/a Stahl Farms, Complaint to the Kewaunee County Circuit Court by Wisconsin Attorney General Peggy A. Lautenschlager:</b></p> <p>“5. On Jan. 17, 2003, the DNR received a complaint from the Kewaunee County Land Conservation Department (KCLCD) that there was a pipe failure from the pumping station at defendant Stahl’s farm releasing manure through a road culvert and onto neighboring a property. KCLCD personnel inspected defendant Stahl’s farm and observed manure that had traveled across the Stahl Farm’s property and onto neighboring property owned by Mr. Seidl located at the intersection of Luxemburg Road and Gasche Road. Defendant Stahl took corrective action by blocking the road culvert on Luxemburg Road in order to stop the flow of manure. A site inspection conducted by DNR staff on January 23, 2003, showed that the majority of the manure was cleaned up. At no time did defendant Stahl notify the DNR of a hazardous substance release.</p> <p>6. On April 21, 2003, the DNR received a complaint that defendant Stahl’s farm’s manure storage pit was overflowing, discharging across the site. Defendant Stahl told DNR staff several days earlier that the manure was approximately 1.5 feet below the pit’s capacity. The level of manure had risen in the pit by April 21, 2003, due to a rain event and material being added. DNR staff did a site visit and observed the manure release and further observed manure having reached School Creek on</p> <p>(continued on the next page)</p>

On or About	<h1>Description</h1> <p>Stahl Farms</p>
	<p>(continued from the previous page)</p> <p>both April 21 and 26, 2003. At no time did defendant Stahl inform the DNR of a hazardous substance release. Defendant Stahl also failed to take actions necessary to minimize the harmful effects of the discharge by failing to prevent continued releases to School Creek as observed on April 26, 2004.</p> <p>7. On June 18, 2003, the DNR received a complaint of manure draining across defendant Stahl Farm's neighboring property owned by Mr. Hauterbrook located on Gasche Road. DNR staff investigated the complaint and observed manure flowing through the ditch east of defendant Stahl's farm. When the DNR made inquiry about the incident of defendant Stahl, defendant Stahl stated that manure was applied to the LeLou field located off of County Trunk Highway N. DNR staff subsequently discovered, after inspecting the site of discharge, that there was a break in a tile line allowing manure to flow into it causing the discharge. At no time did defendant Stahl notify the DNR of the release. 8. On July 12, 2003, the DNR received a complaint of manure draining into ditch on the Seidl property north of Luxemburg Road. During subsequent discussions with defendant Stahl, he stated manure was spread on fields #9 and #10 as identified in Stahl Farm's nutrient management plan, and that rain occurring on July 10, 2003, caused runoff from the fields. During their July 12, 2003, visit, DNR staff observed manure that had been spread by defendant Stahl flowing through the road culvert and onto the Seidl property. Defendant Stahl had failed to take the actions necessary to minimize the harmful effects from the discharge to the lands and waters of the State.</p> <p>9. On Feb. 23, 2004, the DNR received a complaint of manure draining into a ditch and onto the Sconzert property (N5063 Gasche Road, a Stahl Farm neighboring property) south of Luxemburg Road. DNR investigation of the incident revealed that defendant Stahl had spread approximately 192,000 gallons of liquid manure on the LeLou field, located off County Trunk Highway N, west of Gasche Road, during the month of January, with the last application occurring on Jan. 28, 2004. DNR staff determined that the warm weather and rain created sheet run-off of the majority of the land-applied manure from the frozen ground. The manure flowed into a tile line breather pipe as well as over the frozen ground and under the snow creating a river of manure leaving the land application site.</p> <p>The tile line discharges on the west side of Gasche Road, and then by surface flow and way of a culvert, manure flowed under the road onto the neighboring Sconzert property creating a large pool of manure in his front yard. The manure ultimately flowed into School Creek. The manure "river" was of such great volume that it traveled greater than one mile before reaching School Creek. The DNR directed that defendant Stahl place a larger piece of PVC pipe over the 4-inch pipe that the manure was flowing into in order to help minimize its effects to the land and waters. Prior to the DNR's request, defendant Stahl failed to prevent runoff of surface</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Farms</div>
	<p>(continued from the previous page)</p> <p>applied manure thereby discharging a hazardous substance, namely manure, to the waters of the State.</p> <p>10. On Feb. 29, 2004, DNR staff received a complaint of drinking water well contamination at the Kahr residence located at E683 Church Road, Luxemburg, Wisconsin. On March 1, 2004, DNR staff received a complaint of drinking water well contamination at the Treml residence located at E758 Church Road, Luxemburg, Wisconsin. Both residents are located near fields that are used by defendant Stahl to land spread manure. DNR staff inspected the Wachal field on March 2, 2004, to determine if this could be a source of the contamination. The Wachal field had been subjected to warm weather over the weekend and rain conditions the previous evening.</p> <p>These conditions created sheet run-off of the manure from the frozen ground, ultimately into School Creek. The field was checked for tile inlets, soil cracks, or exposed bedrock in both the application areas and in the flow path of the manure. None were located, thus indicating the manure had left the Wachal field by surface flow only. The Wachal field was previously inspected by the DNR on Feb. 26, 2004, and it was determined that the application appeared to conform with permit conditions. Defendant Stahl, however, failed to prevent runoff of surface applied manure thereby discharging a hazardous substance, namely manure, to the waters of the State.</p> <p>11. DNR records reveal that defendant Stahl failed to submit a proposed monitoring program within 90 days of the effective date of the permit, due September 30, 2003. As of June 1, 2004, Stahl Farms has failed to submit such a program in violation of his WPDES permit.</p> <p>12. DNR's review of records reveal that defendant Stahl failed to adequately maintain daily logs. Daily logs from land spreading on the LeLou and Wachal fields fail to list acres applied daily, soil conditions daily, application rate of nitrogen in pounds/acre/day, and application rate of phosphorus in pounds/acre/day. Defendant Stahl's failure to provide such information in his daily logs violates his WPDES permit.</p> <p>13. DNR records indicate that defendant Stahl failed to adequately submit his 2003 annual log tracking manure applications from sampling points 001 and 002. The annual log failed to provide calculations for estimated nitrogen utilized in pounds/acre/year and estimated phosphorus utilized in pounds/acre/year. Defendant Stahl's failure to provide such information violated his WPDES permit.</p> <p>14. Wisconsin Stat. § 292.11(2) requires that “[a] person who possesses or controls</p> <p>(continued on the next page)</p>

On or About	Description Stahl Farms
	<p>(continued from the previous page)</p> <p>a hazardous substance or who causes the discharge of a hazardous substance shall notify [the DNR] immediately of any discharge.”</p> <p>15. Wisconsin Stat. § 292.11(3) requires that a person “who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of this state.”</p>
06.25.04	<p><b>Correspondence from WDNR Secretary Scott Hassett to WI Attorney General Peggy A. Lautenschlager, Subject: Referral of Glen Stahl, doing business as Stahl Farms:</b> “The Department of Natural Resources is referring Glen Stahl, doing business as Stahl farms to the Department of Justice for alleged violations of state hazardous substance spill management statutes and rules and wastewater permitted discharge requirements at the facility located at Luxemburg, Wisconsin.”</p>
05.19.04	<p><b>Correspondence from WDNR Environmental Enforcement Specialist Anne M. Brey to Glen Stahl, Subject: Notice of Violation:</b> “Over the course of the last eighteen months, the Department has investigated several complaints concerning manure leaving the Site [sic], improper land spreading activities with some resulting in discharges to the waters of the state, and inadequate record keeping. As a result of these investigations, the Department alleges the following violations:”</p> <p><i>SRAP comment as noted in WDNR correspondence: January 17, 2003 Incident; April 21, 2003 Incident; June 18, 2003 incident; July 12, 2003 Incident; February 23, 2004 Incident; and March 1, 2004 Incident.</i></p> <p>“At no time did Stahl Farms notify the Department of a release.”</p> <p><i>SRAP comment: WDNR did not estimate the size of each unique spill event.</i></p> <p>“The Department is very concerned about the alleged violations at Stahl Farms.”</p> <p><i>SRAP comment: For final disposition, see entry dated 02.28.10</i></p>
03.26.04	<p><b>Correspondence from WDNR Northeast Regional Director Ron Kazmierczak to Judy Trembl</b> “Thank you for your March 9 letter expressing your concerns about the contamination of your well. Governor Doyle has forwarded your letter to me to respond.</p> <p>On March 3, Ms. Kelley O’Conner, DNR Water Supervisor and Ms. Liz Heinen, DNR Drinking Water System Specialist, visited your home to take water samples and answer your questions.</p> <p>We understand and sympathize with your concerns for your family’s health. It is strongly recommended that you drill a new well with more casing...”</p>

On or About	Description Stahl Farms
03.01.04	<p><b>WDNR Facility Contact Form by WDNR Drinking Water System Specialist Liz Heinen:</b> “On Monday morning 3/1/2004 I received a call and an email from the regional spills coordinator, Rox Chonert. A report of well water that smelled and looked like manure had come in from a [complainant] to a field warden the day before. The complaint alleged that manure had been spread on a field [sic] east of their residence.</p> <p>I met with [the complainants] and we discussed the history of the problem.</p> <p>I ran the water and smelled it – it is discolored brownish green. It smells terrible – made me gag when I took a strong sniff.</p> <p>The [complainants] were advised not to use the water for drinking or cooking, or even brushing of teeth. I told them I would pass the information on to appropriate staff to follow up on the manure spreading complaint. I also told the [complainants] that the best course of action would be to construct a new well with additional casing... There was no cost sharing to help them with these costs...”</p>
03.03.04	<p><b>WDNR File, Glenn Stahl History [sic, entire document]:</b></p> <p>“May 21, 1982</p> <p>Liquid manure storage overflow to School Creek tributary. Warning issued. (Per DeBaker chronology)</p> <p>July 28, 1982</p> <p>Discharge to School Creek tributary. Citation (29.29 – now 29.601) issued. Citation dismissed 9-13-82 because corrective actions were taken after spill. (Per DeBaker chronology)</p> <p>May 11, 1984</p> <p>Complaint – Inspection. Rain-washed out any remaining evidence. No further action taken. (Per DeBaker chronology)</p> <p>March 12, 1985</p> <p>Complaint – Spray irrigation run-off to School Creek. Inspection (3-12-85). Corrective actions taken on spill, no further action taken.</p> <p>March 12, 1986</p> <p>Complaint – Pipe break under ground. Discharge to School Creek. Inspection (3-12-86). Corrective actions taken field application. No further action taken.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Farms</div>
	<p>(continued from the previous page)</p> <p>November 25, 1986</p> <p>Complaint – Over-application of manure to frozen ground and subsequent run-off. Inspection (11-25-86). Photos taken. Inspection of facility (12-1-86). Photos Taken. Notice of Discharge Issued (1-28-87). Required waste utilization plan by 6-30-1987.</p> <p>April 15, 1987</p> <p>Complaint – Over application. No further action taken.</p> <p>June 29, 1987</p> <p>Notice of Discharge Extension (1-28-87) from 1-25-86 incident.</p> <p>June 5, 1989</p> <p>Notice of Discharge Extension (1-28-87) from 1-25-86 incident</p> <p>October 20, 1989</p> <p>Complaint – over application. Inspection (10-20-89). No evidence found. No further action taken.</p> <p>October 31, 1989</p> <p>Notice of Discharge Extension (1-28-87) from 1-25-86 incident.</p> <p>January 11, 1990</p> <p>Enforcement Conference held</p> <p>March 20, 1991</p> <p>Notice of Discharge (1-28-87) closed out.</p> <p>September 10, 1993</p> <p>Complaint – over application with irrigation system. Inspection (9-21-93). Photos taken. Samples taken. Notice of Discharge Issued (12-3-93).</p> <p>May 12, 1994</p> <p>(continued on the next page)</p>

On or About	Description Stahl Farms
	<p>(continued from the previous page)</p> <p>Complaint – Leak in Flush system pipe and tank. Manure contaminated water accumulated in barnyard and run-off. Investigation (5-13-94) Samples collected. (Per DeBaker chronology). Investigation (5-18-94). Warning issued.</p> <p>September 7, 1994</p> <p>Complaint – Contractor opened earthen berms holding back manure from barn flushing system. Discharge to School Creek. Inspection (9-8-94). Photos Taken. Samples collected. Citation (29.601) issued. Ditch graded to problem area.</p> <p>March 30, 1995</p> <p>Complaint – Storage overflow. Inspection. No further action taken.</p> <p>September 12, 1995</p> <p>Meeting with Stahl on expansion, concerns about Stahl getting adequate land for manure application.</p> <p>January 11, 1996</p> <p>Nutrient Management Plan Received (12-3-93). Plan was in place for 1995 &amp; shows spreading locations for 1996.</p> <p>January 17, 1996</p> <p>Notice of Discharge (12-3-93) closed out.</p> <p>May 13, 1996</p> <p>Complaint. Manure Storage over topping. Wind blew manure out of pit. Run-off to School Creek. Inspection (5-14-96). Photos taken. Samples collected. Citation (29.601) issued (8-19-96).</p> <p>April 15, 1998</p> <p>Complaint – Pit drained to prevent over topping. Application to field. Discharge to drain tile. Investigation (4-15-98). Photos taken. Samples collected. Confirmed discharge to School Creek.</p> <p>2000</p> <p>DNR Fisheries program conducted a water quality survey of School Creek.</p> <p>(continued on the next page)</p>

On or About	Description Stahl Farms
	<p>(continued from the previous page)</p> <p>Complaint – Leak in Flush system pipe and tank. Manure contaminated water accumulated in barnyard and run-off. Investigation (5-13-94) Samples collected. (Per DeBaker chronology). Investigation (5-18-94). Warning issued.</p> <p>January 17, 2003</p> <p>Complaint – Manure storage pump failure. Investigation. Photos taken. Discharge to School Creek.</p> <p>April 21, 2003</p> <p>Complaint – Manure storage pit over topping. Investigation. Pictures Taken. Discharge to School Creek.</p> <p>June 18, 2003</p> <p>Complaint – Application – broken tile line in LeLou field. Discharge to tile line. Investigation. Photos taken. Discharge to tributary of School Creek.</p> <p><b>July 1, 2003</b></p> <p><b>WPDES Permit effective date</b> [WDNR emphasis]</p> <p>February 23, 2004</p> <p>Complaint received by NER Headquarters. Forwarded to Warden Allen. – Application – Manure applied to frozen ground on LeLou property. Frozen ground, rain, and spring snow melt (run-off) caused manure to run off into a breather pipe and across frozen ground surface (below snow) off-site into water ways leading to School Creek.</p> <p>February 23, 2004</p> <p>Warden Allen responded to site and meet with Glen Stahl. Warden Allen and Stahl together inspected the Gasche Road drainage ditch and observed the manure off-site. Stahl asked if he needed to get a pumper truck. Later Warden Allen responded along with Kewaunee Co Land Conservation employees Tom Konop and Paul Fredrich on Gasche Road. Photos taken (Warden Allen &amp; Bougie).</p> <p>Agreement that the manure could not be recovered due to large quantity of water flow. After meeting with Konop and Fredrich, Warden Allen again meet with Stahl. Warden Allen instructed Stahl to install a larger diameter PVC riser pipe over the breather pipe so the manure would not enter the drain tile.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Farms</div>
	<p>(continued from the previous page)</p> <p>February 23, 2004</p> <p>Bougie received call in the evening from Warden Allen. Bougie stated he would inspect site on 2-24-04.</p> <p>February 24, 2004</p> <p>Early AM Bougie responded to LeLou and surrounding run-off areas. Manure observed on both sides of Gasche Road (off the application site). No photos taken by Bougie.</p> <p>Bougie went to Stahl Farm and meet with Stahl. Bougie asked Stahl if he had installed a riser pipe in the breather vent pipe. Stahl indicated that he had installed the riser on 2-23-04 immediately after Warden Allen left the property. Bougie asked Stahl if he planned to continue to landspread. Stahl indicated he would no longer be spreading on the LeLou property. Stahl said he was and would continue to be spreading on the Wachal property on Church Road. Bougie instructed Stahl to stay away from the hazard areas on the Wachal property and to be sure the manure stayed on the field. Bougie reviewed Wachl [sic] property map to be sure Stahl was staying out of the hazard maps.</p> <p>February 25, 2004</p> <p>Bougie received a call from Glen Stahl that he was approached by Scott Trembl the prior evening complaining that the manure applied to the Wachal property smelled and was going to runoff with the melt.</p> <p>Bougie received a call from Scott Trembl complaining about the field application on Wachal property. He stated that it will run off the field with the spring melt. I told him that I would be checking the field to make sure application was done in compliance with his permit.</p> <p>February 26, 2004</p> <p>Bougie visited the Wachal property to inspect the field application. Manure had been applied to the field at a very light rate avoiding the hazard areas. Everything looked to be in compliance with the permit and no other action taken.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Farms</div>
	<p>(continued from the previous page)</p> <p>February 29, 2004</p> <p>Warden Allen received complaint from KARLA KAHR ref to Glen Stahl spreading manure on a field east of her home (Leonard Wachal property) and on Saturday 2/28 their well water turned green and smelled like manure. Warden Allen advised KAHR not to drink the water and that he would be getting a hold of appropriate DNR personnel. Warden Allen left a voice mail for Dave Bougie at his office and then contacted Rox Chronert via spills phone. Chronert advised she would contact KAHR and follow up.</p> <p>March 1, 2004</p> <p>Liz Heinen receives call from Chronert regarding potential well contamination at [complainant's] residence. [Complainant's] well sampled at 2:00 p.m. Samples shipped to State Lab of Hygiene.</p> <p>March 2, 2004</p> <p>Heinen received call from Tremml regarding potential well contamination. Heinen offered to come right out to Tremml residence to collect water samples. Heinen scheduled sampling for the next day (3-3-04) at 14:30.</p> <p>Bougie received a call about a meeting with the Kewaunee Land Conservation Board and they wanted Bougie to attend to discuss the permit process and compliance with a permit. Bougie attended the meeting. Tremml and media change focus of meeting to well contamination.</p> <p>Bougie inspected the Wachal property for a potential source of ground water contamination. The field had been subjected to warm weather conditions and rain on the evening of March 1, 2004 and most of the manure had been washed off the field. Snow patches in the field-indicated manure had been applied to the middle of the field but residual snow in the hazard areas was still clean. Other areas of the field were checked for tile inlet and exposed bedrock but none were noted. Photos taken.</p> <p>Bougie visited the Stahl Farm and met with Stahl to get copies of his daily application logs, which are required for his WPDES Permit. Copies of logs were received and Bougie advised Stahl it would be wise not to land apply manure anywhere at this time.</p> <p>(continued on the next page)</p>

On or About	<div>Description</div> <div>Stahl Farms</div>
	<p>(continued from the previous page)</p> <p>March 3, 2004</p> <p>Heinen collected water sample from Tremml residence well.”</p>
Undated	<p><b>WDNR File, Glen Stahl Discharge Problems, Typed and Handwritten Notes [sic, excerpts from the documents]:</b></p> <p>“April 15, 1987 – Complaint received alleging overflow of pit. No action taken because Mr. Stahl has agreed to correct the situation.</p> <p>September 9, 1994 – Barnyard runoff from Stahl farm again confirmed. Ditch graded to problem area. [Handwritten notes follow] Issued 29.29(3) Water Pollution Posted Bond [\$] 368.20</p> <p>[Handwritten] Jan 17, 1996 Satisfaction of 1993 NOD</p> <p>[Handwritten] May 14, 1996 Spill occurred Tributary to School Creek contaminated Issued 29.29 \$368.20 Wasn’t filed until 8-27-96</p> <p>[Handwritten] April 15, 1998 Tile line Discharge Black Field was applied at a rate of 14-15,000 gal/ac Pretty heavy for Spring got to School Creek. Warned”</p>



Manure runoff from a saturated manure-application field.  
Photo Credit: Kewaunee CARES

# WAKKER DAIRY FARM INC.



**Wakker Dairy Farm Inc.**  
**N2348 Highway 42**  
**Kewaunee, Wisconsin 54216**

**Owner(s) / Operator(s): Johannes W. Wakker**

Federal USDA Subsidies 1995-2012: Johannes W. Wakker - \$ 455,746  
WI Targeted Runoff Management Grant (Wakker Project, Fiduciary: Kewaunee County Land & Water Conservation Department) 2005 - \$ 105,980

Facility Description: Industrial dairy complex permitted to confine approximately 1,760 animals (1,700 milking and dry cows and 60 heifers) under Wisconsin Permit WI-0063673 (last issued 12/10/2012). Liquefied manure and dairy wastewater are currently stored in two waste pits, permitted to contain approximately 19.8 million gallons.

Sources: Compliance and grant data is compiled from file excerpts of the Wisconsin Department of Natural Resources (WDNR). Federal subsidy data is from USDA records assembled by the Environmental Working Group. Aerial image is from Google Earth ©.

On or About	Description Wakker Dairy Farm Inc.
12.11.12	<p><b>WDNR correspondence from Environmental Enforcement Supervisor Judy Polczynski to Johannes Wakker, Subject: Notice of Violation / Enforcement Conference:</b> “The Department alleges the following violations: <b>Production Area Discharge Violations</b> [and] <b>Duty to Mitigate</b>. [WDNR emphasis]</p> <p>On May 30, 2012, during a Permit reissuance inspection, Department staff observed feed leachate from the Wakker Dairy feed storage area discharging directly to the adjacent navigable waterway, an unnamed tributary to Lake Michigan. As a result of this investigation, the Department issued Wakker Dairy a Notice of Noncompliance (NON) on June 18, 2012 requesting, among others, photos and a description of installed interim measures for containing feed storage runoff and the planned construction start date of the permanent feed storage runoff control system.</p> <p>On June 28, 2012, the Department received via email the information requested in the NON. Wakker noted it had made repairs and was pumping the leachate sump as needed. The plan at that time was for the new permanent feed storage runoff control system to be started in August 2012.</p> <p>On Oct. 9, 2012, Wakker Dairy stated in email correspondence that construction of the permanent feed storage had not yet started due to difficulties with the bank...</p> <p>On Oct. 22, 2012, in response to a complaint, Department Conservation Wardens observed a leachate discharge to Sandy Bay Creek originating from Wakker Dairy.”</p>
05.30.12	<p><b>CAFO WPDES Compliance Report (6-18-12) by WDNR Agricultural Runoff Management Specialist Casey Jones:</b> “On May 30, 2012 Jones met with Wakker and Engel [facility manager] to discuss permit reissuance process and conduct a site walk over inspection. There are two locations where feed leachate runoff is discharging directly into stream tributary... A culvert that outlets south of the feed storage area had leachate and contaminated storm water coming out of it with concentrated flow path all the way to stream. On the east side of feed storage area there is a runoff system in place, but it is not adequate or has not been maintained to prevent discharges of polluted runoff into stream.</p> <p>Engel provides restriction maps to custom haulers (typically L&amp;M). A 25 foot setback is used for spreading next to streams and direct conduits—both surface and injected—Jones told them surface applications in these areas must be back 100 feet. ...most fields with hydric soils are tiled; some field tiles are mapped—farm is unsure where some outlets are. Farm needs to work on finding outlets and monitoring during and after fields receive manure. Farm relies on custom applicator billing invoices for manure accounting—Jones told them this is not sufficient, farm must keep daily logs with required information.”</p>

On or About	Description Wakker Dairy Farm Inc.
04.12.12	<p><b>Email from WDNR's Jason Moeller to WDNR's Casey Jones, and WDNR online BRRTS database record:</b> "I stopped out at Wakker farm yesterday. L&amp;M had a hose break behind the manure pit. They used sand to contain the manure. It appears a little manure ran down the hill/driveway into the creek, but you couldn't see any in the creek when I was there."</p> <p><i>WDNR comment: Spill was estimated at 500 gallons.</i></p>
11.23.11	<p><b>WDNR correspondence to Johannes Wakker, Subject: Notice of Noncompliance – Manure Spreading in a Surface Water Quality Management Area (SWQMA):</b> "The Department received a complaint on November 16, 2011 regarding land spreading of manure on field GO-1 in a (SWQMA). The investigation determined that solid manure was surface applied on an alfalfa crop on field GO-1 within 100 feet of the stream and through a mapped concentrated flow area."</p>
07.15.11	<p><b>WDNR Substance Release Notification Report, Description: Spill on the road near E4810 Lake Rd:</b> "Pressure valve on the truck manure tank released and then closed. Manure spilled on the road way [and] in the ditch area. Manure scraped up. Sand put down and a vac [vacuum] truck used to pick up the sand and manure in the ditch."</p> <p><i>WDNR comment: Spill was estimated at 100 gallons.</i></p>
06.01.10	<p><b>WDNR correspondence from Environmental Enforcement Specialist Anne Van Grinsven to Johannes Wakker, Subject: Enforcement Conference Summary:</b> "On April 13, 2010, the Department issued Wakker Dairy a Notice of Violation (NOV) for failing by Jan. 1, 2010 to have a properly designed liquid manure storage facility to provide a minimum of 180 days of storage, unpermitted manure run off, unpermitted application of manure on frozen ground and headline [sic] stacking on unapproved site."</p>
04.13.10	<p><b>WDNR correspondence from Environmental Enforcement Specialist Anne Van Grinsven to Johannes Wakker, Subject: Notice of Violation:</b> "After receiving numerous complaints regarding landspreading activities, the Department inspected the complaint areas on Jan. 27 and 28, 2010. Specifically, the Department observed some manure had been surface applied on Field GO-2. Manure had run off into the road ditch along Lake Road. The ground was frozen at the time of the inspection. The Department believes Wakker Dairy failed to prevent manure run off from the application site and though prohibited, surface applied manure on frozen ground. The Department issued a notice of noncompliance [NON] on January 29, 2010 requesting an update as to the actions taken by Wakker Dairy to prevent future discharges and clean up the area."</p> <p>On Jan. 5, 2010, the Department granted approval for temporary headland stacking of sand [contaminated with] manure on field K-2. On Jan. 28, 2010, the Department conducted a drive-by inspection of field K-2. During the inspection, the Department observed sand bedding/manure also stacked on field K-1. Field K-1 had not been approved for stacking in violation of ch. 243, Wis. Adm. Code."</p>

On or About	Description Wakker Dairy Farm Inc.
02.13.10	<p><b>Email from Wakker Dairy's nutrient management planner Todd Koss to WDNR Agricultural Runoff Management Specialist Amy Callis, Subject: Wakker Dairy:</b> "This is my progress report for the incident at Wakker Dairy. A berm along the ditch that is about 1-1.5 ft high has been placed along the field boarder [sic]. The berm is made of the wasted feed pile that was in place. Johannes took his Cat [bulldozer] and put the wasted feed in place on 2-5-2010. I was over there on 2-8-2010 to take pictures. When I discovered that the ditch was not cleaned out I took Johannes there, as he was not aware of the area in question. He was going to remove the material with shovels. I took pictures today, but the recent snow fall has made it difficult to tell if the area is going to be ok [sic]."</p>
01.29.10	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Amy Callis to Johannes Wakker, Subject: Notice of Noncompliance – Manure Spreading and Runoff:</b> "The Department received a number of complaints on January 26 and 27, 2010 regarding landspreading activities on Field GO-2 in the Town of Carlton, Kewaunee County. Warden David Allen and Amy Callis, Agricultural Runoff Management Specialist, investigated the complaints on Jan. 27 and 28, 2010 respectively. The investigation determined evidence that manure surface applied on Field GO-2 had run off into the road ditch along Lake Road and subsequently flowed to an unnamed tributary to Lake Michigan. In addition, portions of the field received surface applications of manure which were not incorporated [tilled in] at the time of application. <i>Immediate efforts should be taken to collect the remaining manure and prevent addition [sic] runoff from this field.</i>" [WDNR emphasis]</p>
09.16.09	<p><b>WDNR correspondence from Agricultural Runoff Management Specialist Amy Callis to Johannes Wakker, Subject: WPDES Permit Compliance Inspection Summary:</b> "On Aug. 25, 2009 I met with Scott [not identified further] in your absence and conducted a compliance inspection of Wakker Dairy Farm Inc.... The farm has runoff controls for the feed storage pad. At the time of the inspection, there was ponding of leachate in the filter strip and areas did not have vegetation.</p> <p>As a reminder... 'manure or process wastewater may not be surface applied when precipitation capable of producing runoff is forecast within 24 hours of the time of planned application.' During the inspection, L&amp;M Industries was onsite hauling liquid manure at the farm. Rain was predicted for later in the afternoon on Aug. 25, 2009. <i>"Please ensure that the nutrient management plan identifies procedures to address land application of manure when precipitation is predicted which could cause runoff."</i> [WDNR emphasis]</p>
04.21.01	<p><b>WDNR online BRRTS database record:</b> "Cause: liquid storage pit overflow" "Wdn [Conservation Warden] made Wakker stop flow &amp; get pit fixed ASAP"</p> <p><i>WDNR comment: Resulted in soil contamination and runoff into Sandy Bay Creek. Spill was estimated at 30,000 gallons.</i></p>

On or About	Description Wakker Dairy Farm Inc.
04.04.01	<p><b>WDNR online BRRTS database record:</b> “Cause: overfill of [liquid manure] storage pit” “Wakker advised to stop flow &amp; pump pit down”</p> <p><i>WDNR comment: Resulted in groundwater, soil and surface water contamination.</i></p> <p><i>SRAP comment: Spill size estimate was not entered in the BRRTS online database by WDNR.</i></p>



CAFOs confine thousands of animals for their entire lives in buildings. The manure from these animals is often stored in giant open pits that are the source of air and water pollution.

Photo Credit: SRAP

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