



EPA Targets Clean Water Act Crimes - Illegal Pollution by Animal Confinement Operations Punished by Fines and Incarceration

One of EPA's national enforcement initiatives is reducing animal waste pollution from livestock and poultry operations that impair our nation's waters, threaten drinking water sources, and adversely impact vulnerable communities by illegally discharging manure, litter, or process wastewater into waters of the United States.

Concentrated Animal Feeding Operations (CAFOs) are a subset of livestock and poultry Animal Feeding Operations (AFOs) that meet the regulatory thresholds of number of animals for various animal types. These operations generate significant volumes of animal waste which, if improperly managed, can result in environmental and human health risks such as water quality impairment, fish kills, algal blooms, contamination of drinking water sources, and transmission of disease-causing bacteria and parasites associated with food and waterborne diseases.

The Clean Water Act (CWA) authorizes EPA to take enforcement action against persons who discharge manure or other pollutants into waters of the United States without (or in violation of) a permit. As part of EPA's ongoing enforcement initiative, the Agency's Criminal Investigation Division, together with the Department of Justice and state partners, has pursued numerous criminal enforcement actions against persons who knowingly or negligently discharge animal wastes. Courts in North Carolina and Oregon recently handed down prison terms along with six-and seven-figure fines following criminal convictions for illegal manure discharges.

The intent of this EPA Criminal Enforcement Alert is to increase public awareness of the consequences of knowing or negligent CWA violations by animal confinement operations.

Important Points to Remember

Farmers depend on a healthy environment, and most agricultural operations work hard to meet their environmental stewardship responsibilities. As in any business, however, a few put profits ahead of their legal obligations. EPA's criminal enforcement actions are reserved for the most serious violations of environmental laws. Prosecution is intended to deter other potential violators; eliminate the temptation to "pay to pollute;" and help ensure that operators who do follow the rules won't face unfair competition from those that break the law.

Owners or operators of animal confinement operations can be criminally prosecuted under the CWA if they knowingly or negligently discharge pollutants from a point source (such as lagoons, tanks, pipes, or other conveyances) into waters of the United States without a permit.



Fish Kill (Stock Photo)

Criminal Enforcement Alert - Recent Prosecutions

EPA and state partners work together to identify, investigate, and prosecute criminal violations of the CWA.

CWA criminal convictions result in fines, restitution, and/or incarceration.

Regardless of the size of an animal confinement operation, any person who knowingly or negligently violates the CWA by discharging pollutants from a point source to waters of the United States without permit authorization faces potential criminal liability.

Freedman Farms, Inc.: \$1.5 M Combined Fine/ Penalties, 5 Years Probation, 6 Months Imprisonment for its President

William Holdner: \$300,000 Fine, 5 Days Imprisonment, 3 Years Probation

Volbeda Dairy: \$30,000 Fine, 3 Years Probation

Anders Knudsen: \$10,315 Combined Fines/Penalties

Dahlgren Cattle Co., Inc.: \$12,000 Fine, 3 Years Probation

Stardust and Assen Dairies, et al: \$50,000+ Combined Fines/Penalties

Ohio Fresh Eggs, LLC: \$300,000 Combined Fines/ Penalties

Van Ham Dairy and MVH Custom Works: \$25,000 Combined Fines/Penalties

Freedman Farms, Inc., a Columbus County North Carolina hog farm, and its president, William B. Freedman,



were federally prosecuted for illegal discharges from a lagoon into a stream that leads to the Waccamaw River. Freedman and the company pled guilty to pumping approximately 324,000 gallons of hog manure from a lagoon into the nearby water way. On February 13, 2012, William Freedman was sentenced to 6 months in prison to be followed by 6 months of home confinement. The company was sentenced to pay \$1.5 million in fines, restitution, and community service and placed on probation for 5 years. The court also required the company to implement a comprehensive environmental compliance program and an annual training program and to treat and dispose of hog waste in two lagoons.

William Holdner, owner of a Columbus County Oregon cattle operation, was convicted on 27 state criminal counts of water pollution from a Concentrated Animal Feeding Operation (CAFO), for illegally discharging cattle waste into Mud Creek and South Scappoose Creek, both



tributaries of the Columbia River. On March 21, 2012, the Columbia County Circuit Court sentenced Holdner to 5 days incarceration, a \$300,000 criminal fine, and 3 years' probation. The Oregon Department of Agriculture (ODA) alerted EPA's Criminal Investigation Division (EPA-CID) that Holdner Farms, an unpermitted CAFO, was discharging animal waste into South Scappoose Creek using a manure gun, a device designed to apply manure to crops. EPA-CID and the Oregon State Police assisted ODA in investigating the pollution and permitting issues associated with Holdner's criminal conduct.

Criminal Enforcement Alert - Recent Prosecutions

OTHER FEDERAL PROSECUTIONS

Dahlgren Cattle Co. Inc., a large feed-lot located in Bertrand, Nebraska, was federally prosecuted in 2010 after over-applying liquid manure and water to a field, leading pollutants to flow through a drainage ditch into the 560-acre federally owned Cottonwood Waterfowl Production Area. The company paid a \$12,000 criminal fine and was placed on 3 years' probation. This was not the first violation for Dahlgren as the company was fined \$49,000 by a Nebraska court in 2007 for illegal manure discharges.

Ohio Fresh Eggs, LLC, a CAFO and the largest egg producer in Ohio, was federally prosecuted in 2009 for illegally discharging egg wash water into Kreisel Ditch, a tributary of Tymochtee Creek. The discharges resulted from the company's over-application of wastewater from its wash water lagoon onto fields where workers turned on the spray application system and left it running unattended throughout the night. The wastewater then ran into nearby surface waters. After pleading guilty, the company paid a fine of \$150,000 and made a separate community service payment of \$150,000 to three charitable environmental organizations.

OTHER STATE PROSECUTIONS

Volbeda Dairy was prosecuted by the State of Oregon in 2011 for illegal water pollution. The large CAFO, operated by John and Lucyann Volbeda, had been previously cited for discharging pollutants into Truax Creek in violation of the Clean Water Act and settled that charge with the EPA by paying an \$8,000 fine. Following that civil enforcement action, multiple additional discharges in 2009 led to the criminal prosecution. The company was sentenced to a \$30,000 criminal fine and 3 years of probation.

Anders Knudsen was prosecuted by the state of Iowa in 2010 for illegal discharges from his swine nursery, which caused a fish kill. Knudsen was convicted of negligent

disposal of a pollutant, a serious misdemeanor, after admitting that he pumped liquid swine manure from a confinement pit onto the ground for about six hours in late 2009. The discharge flowed through a cornfield and pasture into Otter Creek, which is a tributary of the Cedar River. Iowa Department of Natural Resources determined that Knudsen's actions killed 151,086 fish. Knudsen was sentenced to pay \$10,000 in restitution and a \$315 fine.

Stardust and Assen Dairies, with Beam Custom Application, and two individuals were prosecuted in late 2010 by the State of Ohio for multiple illegal discharges of manure that caused significant fish kills. The dairies hired Joe Beam and his company to land apply manure from their operations. Beam's repeated decisions to over-apply manure on saturated fields in violation of nutrient management requirements caused discharges that killed more than 6,000 fish and other aquatic organisms in the East Fork of Paint Creek. The state prosecuted Beam and his company, both dairies, and dairyman Petrus Assen. Those five defendants paid \$10,000 in total fines, more than \$35,000 in restitution to the Ohio EPA for the environmental damage, and an addi-



tional \$6,000 for community service. Moreover, the two dairies were required to submit letters to state farm journals accepting responsibility for their involvement in the illegal pollution.

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Van Ham Dairy and MVH Custom Works, the custom manure applicator for the dairy, were prosecuted in 2009 by the State of Ohio for the discharge of liquid manure from the dairy's lagoon into a field and then a nearby tributary. The discharge occurred when MVH flooded a field with manure, which then flowed into the tributary. The Dairy, owned by Jan Van Ham, and MVH, owned by Mark Van Ham, were each sentenced to pay \$10,000 penalties to the state. This penalty follows on a prior \$5,000 fine by the State of Ohio for multiple unauthorized discharges to a tributary of the Blanchard River.

Compliance Information Available

Most states offer an abundance of information through extension services to assist owners and operators of animal feeding operations in complying with the law. Some even offer financial assistance. There are programs for developing conservation plans, including best management practices for nutrient management, manure management, and practices to minimize impacts to water quality, while improving crop and livestock production. Finally, EPA provides information through the Office of Enforcement and Compliance Assurance's Agriculture Compliance Assistance Center available at <http://www.epa.gov/agriculture/anafowat.html>.

Report potential violations at: www.epa.gov/tips.

Read more about EPA's Criminal Enforcement Program at: www2.epa.gov/enforcement/criminal-enforcement

