

**DATE:** February 16, 2023  
**To:** Land Conservation Committee  
**FROM:** Amy Piaget, County Conservationist, and Seth Ebel, Agricultural Engineer  
**SUBJECT:** Helt Manure Storage Facility Closure Appeal

**BACKGROUND:**

Chapter 49.11 (1)(a)3, Dane County Code of Ordinances (DCCO), states that “no person may do any of the following without obtaining a permit... Close a manure storage facility...”

*Manure storage facility* means “an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure, process wastewater, or other animal or agricultural waste.” Ch. 49.07(20), DCCO

*Permit* means “the signed, written statement issued by the department under this ordinance authorizing the applicant to construct, install, substantially alter, or close a manure storage facility...” Ch. 49.07(34), DCCO

Further, “a *complete permit application* for manure storage facility closure shall meet all standards as outlined in NRCS Technical Standard 360 and shall specify: (a) provisions to remove and properly dispose of all accumulated wastes in the manure storage facility, (b) provisions to remove any concrete or synthetic liner, or properly use pieces of the concrete or synthetic liner as clean fill at the site, (c) provisions to remove and properly dispose of soil contaminated with waste from the manure storage facility, (d) provisions to remove any soils, to the depth of significant manure contamination or 2 feet, whichever is less, from the bottom and sides of a manure storage facility without a constructed liner, (e) provision to remove or permanently plug the waste transfer system serving the manure storage facility, (f) provisions to cover all disturbed area with topsoil, seeding the areas with a grass or native plant mixture, and mulching the seeded area... (g) any other additional information required by the department to protect water quality and determine compliance with this section.” Ch. 49.12(3), DCCO

*Appeal authority* states “the committee shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination by department staff in administering this ordinance.” Ch. 49.24, DCCO

*Fees* are “established pursuant to a fee schedule adopted by the committee.” Ch. 49.25(1), DCCO  
The current fee schedule was approved by the LCC on April 4, 2019. Manure storage facility closure has a permit fee of \$1,000. The fee is waived if the closure permit is obtained prior to work starting.

**FINDINGS:**

Mr. Helt was informed by Mr. Ebel in September 2022 that a manure storage facility closure permit would be required in order to close the facility located at the Schmitt Farm and that staff would contact Mr. Helt after the harvest season.

Mr. Seng contacted Mr. Helt on 12/19/2022 regarding closure of the manure storage facility at the Schmitt Farm. Mr. Helt reported the building over the storage was in the process of being torn down. Mr. Seng visited the property at 12/20/2022 and verified the building was demolished and manure was removed from the manure storage facility at the Schmitt Farm.

Mr. Ebel returned to the Schmitt Farm on 12/20/2022 and informed Mr. Helt of the permit requirements and \$1,000 fee. Mr. Helt continued with the manure storage facility closure. Mr. Ebel observed the closure of the storage facility including the demolition of the concrete and fill of the site.

A notice of violation was issued on 1/12/23 requiring Mr. Helt to apply for a manure storage facility closure permit after the fact and pay the \$1,000 fee per the fee schedule by 2/15/2023. No permit application or fee has been received by the Department to date.

The Department received a letter on 1/18/23 from Mr. Helt requesting an appeal to waive the \$1,000 permit fee.

**CONCLUSION:**

Department staff, in accordance with the Chapter 49 ordinance requirements, believe a permit is required for the closure of the Schmitt Farm manure storage facility. Since the closure has already occurred, per the approved fee schedule, an after the fact permit is required which includes a \$1,000 permit fee.

**RECOMMENDED MOTION:**

Department staff recommend the Land Conservation Committee move to determine an after-the-fact permit is required for the Schmitt Farm manure storage facility closure that occurred on December 20, 2022 and that a fee of \$1,000 be submitted in accordance with Chapter 49, DCCO, and the approved fee schedule.

**Attachments:**

- Complaint Form
- Map and Photos
- NOV issues 1/12/2023
- Helt Appeal Request

**Dane County Land Conservation Division  
Agricultural Management Complaint**

**General Information:**

**Complaint taken by:** SEE    **Date:** 12/20/2022    **Time:** 10:00 am

**Complainant (optional):** LWRD Staff

**Location: Township:** Dane    **Sec:** 27 ¼:SE    ¼ ¼:SE

**Address or Nearest Intersection:**

**Descriptions of Complaint:** Closure of manure Storage Facility Without a Permit

**Owner:** HELT REV TR, DALE G & DIANE M

**Operator:** Dale Helt

**Complaint Type:**

**Is manure running off site?** NO

**Is manure close to a surface or groundwater?** NO

**Has anyone else been contacted?**

If yes, name of person or department: NO

**Land Conservation Division Response:**




Date & Time	LCD STAFF	Action Taken
12/11/2019	Seth Ebel	A Certificate of Use Application was submitted to LWRD by Dale Helt for multiple facilities including the Schmitt Farm Pit.
5/21/2020	Seth Ebel	Inspected all of the manure storage facilities included in the COU application except the Schmitt Farm Pit. This facility was skipped because it was at a different site than the others.
9/3/2022	Seth Ebel	Called Mr. Helt and discussed the status of the Certificate of Use application. Mr. Ebel had inspected several of the manure storage facilities at the dairy farm. One manure storage facility, at the Schmitt Farm, was not inspected at that time. During this call Mr. Helt indicated that this was an old under-barn hog house that was no longer in use. When asked if he wanted to close the facility he responded that he did. Mr. Ebel told Mr. Helt that they would reach back out to Mr. Helt after the harvest season and work on the process then.
12/19/2022	Kevin Seng	Called Mr. Helt and inquired about the closure of the Schmitt Farm manure storage facility. Mr. Helt reported that the building was being torn down today.
12/20/2022	Kevin Seng	Mr. Seng went out to the site at approximately 9:30 am. Mr. Seng observed that the building was demolished and the manure was removed from the storage facility. Mr. Helt informed Mr. Seng that he intended to close the storage facility today. Mr. Seng informed Mr. Helt that our office would not have time to develop a closure plan and a cost share contract given that timeframe.  At approximately 10:30 am, Mr. Seng returned to the LWRD office and discussed the issue with Amy Piaget & Mr. Ebel. It was determined that if Mr. Helt wants to close the facility today there would not be cost share available and it would require an after the fact permit with a \$1,000 fee.
12/20/2022	Seth Ebel	At approximately 1:15 pm, Mr. Ebel arrived at that site and immediately observed the demolished concrete in the bottom of the storage facility. Soils below the liner appeared clean and free of any contamination. Photos were taken. Mr. Ebel observed clean fill being placed over the

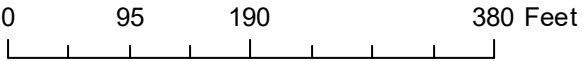
		<p>demolished liner and some of the wood from the building that was placed in the hole. Mr. Ebel informed Mr. Helt that the closure as observed was satisfactory and that the closure will meet standards.</p> <p>Mr. Helt and Mr. Ebel then discussed the after-the-fact permit for the closure and the \$1,000 permit fee. Mr. Helt was frustrated by what he perceived to be a lack of flexibility and responsiveness from the LWRD. Mr. Ebel informed Mr. Helt that the fee could be appealed to the Land Conservation Committee and he said he intended to appeal.</p> <p>Mr. Helt told Mr. Ebel that he needed to close the storage today for several reasons. Mr. Helt stated that as the facility sits now it is a hazard to the people that rent the farmhouse only a few hundred feet away. There are children that live in the house. He was also concerned about the weather forecast. As of that day the forecast was calling for a foot of snow, sustained sub-zero temperatures, and high winds. This all lead to concerns that leaving the site as it was could create conditions that would make it extremely difficult to close the storage facility until the spring thaw. This would create a prolonged exposure of the hazard that the storage facility currently poses to the people living in the house nearby.</p>
1/3/2023	Seth Ebel	Mr. Ebel received a voice message from Mr. Helt asking what the status of the manure storage closure is. Mr. Ebel responded that the LWRD intended to issue a Notice of Violation the Mr. Helt and a requirement to regain compliance would be to submit the after-the-fact permit and \$1,000 fee. Mr. Helt was frustrated about the situation and again stated his intent to appeal the determination.
2/15/2023	Seth Ebel	Saw Mr. Helt at an unrelated meeting. Discussed the appeal process with him. I told him the appeal would be held at the next LCC meeting on February 23 <sup>rd</sup> at 5:15 pm.

Dane County Map



December 27, 2022

-  Dane County Mask
-  Parcel Number
-  Parcels





Photos Taken by KJS at approximately 10:00 am, 12/20/2022





Photos Taken by SEE at approximately 12:20 pm, 12/20/2022







Amy Piaget, County Conservationist  
Joe Parisi, Dane County Executive

Administration • Land Conservation • Parks • Water Resource Engineering

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January 12, 2023

Helt Rev. Tr.  
Attn: Dale Helt  
7074 Lavina Rd.  
DeForest, WI 53532

**Subject: Notice of Violation: Chapter 49 Dane County Code of Ordinances (DCCO), SE 1/4 of the SE 1/4 Section 27, T9N, R8E, Town of Dane**

Dear Mr. Helt,

Dane County Land & Water Resources Department (LWRD) is aware that a manure storage facility on your farm was closed the week of December 19, 2023 without first obtaining a permit. The closure of a Manure Storage Facility requires a closure plan and manure storage closure permit to ensure the structure is closed properly and does not cause future groundwater or surface water contamination.

At this time, the closure of the manure storage facility does not comply with Chapter 49, Dane County Code of Ordinances (DCCO), specifically:

**Ch. 49.11(1)(a)3:** No person may close a manure storage facility without obtaining a permit.

In order to return to compliance, the following shall be completed:

- **February 15, 2023** - Submit an application for a manure storage facility closure permit along with the \$1,000 permit fee. An application for a permit has been included with this letter.

Appeals to this determination shall be submitted in writing within 60 days of receiving this determination and must identify the specific grounds for the appeal in accordance with Ch. 49.24, DCCO. Appeals shall be submitted to: Land Conservation Committee Chair, Dane County Land & Water Resources Department, 5201 Fen Oak Drive, Rm 208, Madison WI 53718

Failure to meet the timeline could result in fines, forfeitures, or referral to Dane County Corporation Counsel for further action.

If you have any questions regarding this matter, please contact me at (608)516-2639 or via email at [ebel.seth@countyofdane.com](mailto:ebel.seth@countyofdane.com)



Regards,

A handwritten signature in blue ink, appearing to read 'Seth Ebel', is positioned above the printed name.

Seth Ebel  
Agricultural Engineer

Encl.

cc: Jesse Bennett - WDNR

Rec'd 1/18/23

Daryl Pulsfus  
CIC, LUTCF  
Agent

 **Rural Mutual**  
Insurance Company

Phone 608-524-8005

Fax 608-524-4726

pulsfusasst@ruralins.com

1030 E. Main Plaza, Suite 3  
Reedsberg, WI 53959

421 Water Street, Suite 105  
Prairie du Sac, WI 53578

Land & Water Resources.

I Dale Helt wish to appeal my  
penalty for closing a manure pit without  
a permitt. The county new last summer  
we were going to close this pit. I had  
backhole operator put me on his list to  
come to my farm when he had time.  
On a Friday I got a call we are coming  
Monday. I called land & water they  
came out before we filled it in and  
inspected the pit no cracks floor looked  
good no ground water contamination.  
The weather was changing 40+50 mile  
per hour winds & snow and sub zero

...Premiums paid here, stay here to keep Wisconsin Strong.





Daryl Pulsfus  
CIC, LUTCf  
Agent

Phone 608-524-8005  
Fax 608-524-4726  
pulsfusasst@ruralins.com

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weather was on the way. They  
said worst storm ~~on~~ in 40 years  
on the way. I talked to the  
and a water person that ~~inspect~~ inspected  
the pit and I told him I can't  
take a chance on leaving pit open  
and exposed and fill up with snow  
could be too dangerous. I have small  
children who live at the property and  
I didn't want someone to fall in the  
pit since it was exposed. So I had  
the backhoe person fill the pit in before  
someone got hurt. I knew I was liable



Daryl Pulsfus  
CIC, LUTCF  
Agent

Phone 608-524-8005  
Fax 608-524-4726  
pulsfusast@ruralins.com

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The Land + Water person  
said the pit floor looked good  
So I had to make a decision  
So no one got hurt or if something  
happen a law suit would follow,  
I believe in taking good care of  
our water everywhere I hope you  
understand my ~~decision~~ decision, time  
was against me. Safety is #1  
I hope you understand I hope  
you ~~wave~~ wave the \$1,000 fine  
Thank you Deb Helt