

December 2, 2021

Jason Fuller  
Carbon Cycle Consulting LLC  
7167 Schneider Road  
Middleton, WI 53562

**SUBJECT: Manure Storage Certificate of Use CU2021-90 & CU2021-91- Revocation**

Dear Mr. Fuller,

This letter is being sent to you to document the discussions and actions that have been taken regarding the Carbon Cycle Consulting composting facility, located at 464 Canal Road Marshall, WI 53559, and the status of the Certificate of Use for that site.

The following is a summary of actions taken to date:

- On June 18, 2021, you were sent a letter (enclosed) stating that before a Certificate of Use could be issued for the compost pad and lagoon there were specific actions that needed to be completed.
- On July 29, 2021, the Dane County Land & Water Resources Department (LWRD) issued Carbon Cycle Consulting a conditional Certificate of Use (enclosed) even though several items from the letter dated June 18, 2021 had not been addressed. These items became conditions of the issued Certificate of Use.
- On September 29, 2021, at your request, an extension (enclosed) for two of the dates listed in the Certificate of Use conditions was granted.
- On December 1, 2021, during a phone call with LWRD staff, you stated that the fence had not yet been installed due to material shortages. You also stated that the lagoon had not yet been evaluated or repaired due to permitting constraints from other agencies.

To date, several items listed in the Conditional Certificate of Use have not been completed as required in the time allowed. **Based on this information, the Certificate of Use for your facility is hereby revoked.**

The terms of this revocation include:

- Until a new Certificate of Use is issued, you may not haul any additional manure or manure derivatives to the site.
- Material that is on-site may remain there at this time and shall be monitored to prevent runoff or discharges.
- You may haul material from the site to an approved location if it can be done in accordance with federal, state, county, and local regulations.
- Once these conditions from the original conditional Certificate of Use are completed, a new Certificate of Use can be issued.

Failure to comply with the requirements in this letter may result in a stop work order, fine, or forfeiture.

Should you have any further questions, please feel free to contact me at 608-516-2639 or via email at [ebel.seth@countyofdane.com](mailto:ebel.seth@countyofdane.com).

Sincerely,

Seth Ebel, PE  
Agricultural Engineer

- C. Betsy Powers (SCS Engineering)
- Daniel Werner (DNR)
- Josie Hanrahan (DNR)
- Sarah Johnson (Dane County Planning and Development)

*Enclosures*



Amy Piaget, County Conservationist  
Joe Parisi, Dane County Executive

Administration • Land Conservation • Parks • Water Resource Engineering

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June 18, 2021

Jason Fuller  
Carbon Cycle Consulting LLC  
7167 Schneider Road  
Middleton, WI 53562

Subject: Manure Storage Certificate of Use Requirements for the Herman Farm Site

Dear Mr. Fuller,

This letter is being sent to you to document the discussions that were had between yourself and Dane County Land & Water Resources (LWRD) staff at a site visit on May 5<sup>th</sup>, 2021 and to provide you with the information necessary to begin using the Herman Farm site as a composting facility in compliance with Chapter 49 of the Dane County Code of Ordinances.

Site Visit Summary:

On May 5th, 2021 Seth Ebel & Shawn Esser from the LWRD attended a meeting at the Herman Farm at the request of Andrew Skwor (MSA) and Jason Fuller. One of the purposes of the meeting was to determine the viability of the site for a composting operation that would utilize manure from different sources in the area and conduct a preliminary evaluation of the manure storage facility for compliance with Ch. 49. The large paved area where composting would occur is not considered part of the manure storage facility.

Mr. Esser & Mr. Ebel inspected the existing lagoon that collects runoff from the paved composting pad. Mr. Fuller was present and Mr. Skwor attended part of the inspection via phone call. Mr. Ebel and Mr. Esser determined that the lagoon required safety fence and signs be installed around the entire perimeter to prevent unauthorized access. Additionally several small burrow holes (likely from small mammals) were present in embankment and liner of the facility. Mr. Ebel & Mr. Esser determined that those burrow holes would need to be evaluated and treated, if necessary, to assure the integrity of the clay liner was not compromised.

Mr. Ebel & Mr. Esser also told Mr. Skwor & Mr. Fuller that these issues would need to be addressed before the facility would receive a Certificate of Use. Once the Certificate of Use was issued manure could be brought to the site for composting.

Requirements:

Under Ch.49.7(19) manure is defined as livestock excreta and includes the following when intermingled with excreta in normal farming operations: debris including bedding, water, soil, hair, and feathers; processing derivatives including separated sand, separated manure solids, precipitated manure sludges, supernatants, digested liquids, composted biosolids, process wastewater; and runoff collected from barnyards, animal lots, and feed storage areas

Before a Certificate of Use can be issued, and before manure can be hauled to the site and placed on the composting pad, the following must be completed:

1. Submit a Certificate of Use application and permit fee. You can find the application form here: <https://lwr.d.countyofdane.com/what-we-do/agriculture/manure-management>
2. Installation of safety features as required under Ch. 49.16(2)(e).  
This includes a safety fence around the perimeter of the structure and safety signs.
3. Obtain the services of an engineer licensed in the State of Wisconsin to evaluate and develop a plan to treat burrow holes in the earthen liner of the manure storage facility, to the extent necessary, to assure the liner functions as designed and provide a summary of the work completed to the LWRD.

Once these items have been completed the LWRD will issue a Certificate of Use for the facility. Until that happens no manure should be hauled to the site. Failure to comply with the requirements in this letter may result in a stop work order, fine, or forfeiture.

Should you have any further questions, please feel free to contact me at 608-516-2639 or vial email at [ebel.seth@countyofdane.com](mailto:ebel.seth@countyofdane.com).

Sincerely,



Seth Ebel, PE  
Agricultural Engineer

C. Andrew Skwor (MSA)  
Daniel Werner (DNR)  
Mark Cain (DNR)

Certificate of Use Number: CU2021-90  
CU2021-91  
Issue Date: 7/29/2021

Landowner Information: Carbon Cycle Consulting, 464 Canal Road, Marshall, WI, 53559  
Operator Information: Jason Fuller, P.O. box 628455, Middleton, WI, 53562

**SUBJECT: Certificate of Use – Conditional Approval**

Thank you for submitting a Certificate of Use application to the Dane County Land & Water Resources Department (LWRD). Based on a review of your application materials and a site visit conducted on 5/5/2021, a certificate of use is **conditionally approved** for the following storage structures effective the issue date above:

FACILITY ID*	NAME	YEAR CONSTRUCTED	TYPE OF MANURE	STORAGE CAPACITY (GALLONS)
90	Lagoon	2009	Liquid	3,000,000
91	Compost Pad	2009	Solid	6,000,000

Approval of the certificate of use is contingent on the following items being brought into compliance by the dates identified:

- **Develop/update and submit a nutrient management plan by 6/1/2022.** A nutrient management plan meeting NRCS Technical Standard 590 Nutrient Management is required for all manure stored in the manure storage facilities associated with this certificate of use. Cost-share funding may be available to assist with the development of a nutrient management plan. If you intend to apply manure during frozen and/or snow covered conditions you must submit an application for a Winter Spreading Permit by October 15, 2021.
- **Conduct an engineering evaluation to determine the integrity of existing manure storage facility by 9/30/2021.** LWRD staff observed burrow holes in the manure storage facility (Lagoon) earthen liner. An engineering evaluation conducted by a professional engineer is needed to determine the appropriate repairs to assure the integrity of the manure storage facility.
- **Repair existing manure storage facility by 10/31/2021.** The manure storage facility (Lagoon) is required to be repaired to meet applicable technical standards and receive approval to store manure under the certificate of use. Manure storage permitting may be required depending on the scale of the required repairs.
- **Install safety devices by 10/31/2021.** The following safety devices shall be installed in order to meet the conditions of this certificate of use:
  - Safety fence around the perimeter of the Lagoon facility.
  - Grating or a structural cover over the opening in the transfer structure located on the southwest corner of the Lagoon.

In order to receive an approved (unconditional) certificate of use, the item(s) identified in the compliance schedule shall be completed in accordance with the timelines proposed. If you are unable to meet the proposed timelines, contact the LWRD office to discuss alternatives. Failure to meet the compliance requirements may result in denial of the certificate of use, fines, forfeitures, stop work orders, or referral to Corporation counsel for further action.

Under Dane County Code of Ordinances (DCCO), Chapter 49.16 Certificate of Use, the following operational conditions apply for all approved manure storage facilities:

- **Update and follow a nutrient management plan.** A nutrient management plan (NMP) meeting the current version of *NRCS Technical Standard 590 Nutrient Management* shall be on file with the LWRD and:
  - Accounts for all manure generated and land applied – including liquid and solid manure.
  - Obtains a Dane County winter spreading permit prior to applying manure during frozen or snow covered conditions; if applicable.
  - Updates to the NMP shall be submitted annually by June 1<sup>st</sup>.
- **Properly operate and maintain manure storage facility(s).** Manure storage facility(s) shall be operated in accordance with Ch. 49.08(8), DCCO, and consistent with engineering, technical, and management guides.
  - A margin of safety shall be identified on all manure storage facilities.
  - Manure levels may not exceed the margin of safety level.
  - Manure storage permits are required prior to the construction of new storage structures, modifications/alterations to existing structures, or transfer systems.
- **Maintain safety devices:** Safety devices shall be installed and maintained including:
  - Fencing around manure storage facilities unless vertical walls are five (5) feet above the ground surface or the facility has a cover capable of supporting foot traffic.
  - Grates or covers for any openings in waste transfer systems greater than six (6) inches in diameter.
  - Safety stops, gates, or both shall be installed at push-off ramps and load out areas of impoundments and structures to prevent accidental entry of tractors and other equipment.
  - Facilities and components shall have signs at all access points warning of the danger of entry.

In addition, the following administrative conditions apply:

- **Inspections and repairs:** Upon advanced notice by the LWRD staff, periodic inspections may be conducted of the manure storage facility(s). Additional information, such as engineering evaluations, may be required to document compliance with the conditions of this certificate of use. Repairs, modifications, upgrades, or closure may be required upon review.
- **Closure of manure storage facility(s):** A manure storage permit and closure plan are required to properly abandon manure storage facilities within two (2) years of operations ceasing to use the facility. Closure may also be required based on results of inspections and evaluation materials. Cost share funding may be available to assist with properly closing existing facilities.

- **Revocation of certificate of use:** A certificate of use may be revoked if the LWRD determines at least one of the following: misrepresentation of any material fact in the application; misrepresentation of any material fact in the manure storage facility plan; misrepresentation of any material fact in the nutrient management plan; failure to comply with the nutrient management plan requirements; failure to submit nutrient management plan updates or information upon request; multiple or repeated violations Chapter 49, DCCO.

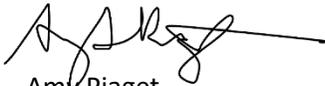
This certificate is valid for ten (10) years from the issue date and can be renewed in accordance with renewal application procedures and applicable fees. Contact the LWRD to request renewal materials at least six (6) months prior to expiration. In accordance with Ch. 49.24, DCCO, appeals for this decision may be submitted in writing to the Land Conservation Committee within sixty (60) days of the issuance date. This certificate of use is non-transferable without prior written approval from the County Conservationist. Please maintain this document for your records.

If you have questions, please contact:

- Seth Ebel, Agricultural Engineer, (608) 516-2639, [ebel.seth@countyofdane.com](mailto:ebel.seth@countyofdane.com)
- Shawn Esser, Conservation Specialist, (608) 228-6347, [esser.shawn@countyofdane.com](mailto:esser.shawn@countyofdane.com)

Thank you for your cooperation.

Sincerely,



Amy Piaget  
County Conservationist  
Land Conservation Division

*Enclosures: Identification map of manure storage facility(s)  
Inspection Summary*

## Ebel, Seth

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**From:** Ebel, Seth  
**Sent:** Wednesday, September 29, 2021 10:48 AM  
**To:** 'Jason Fuller'; Betsy Powers  
**Cc:** Piaget, Amy; Minks, Kyle; Mark Cain; Daniel - DNR Werner; Nathan J. - DNR Wells  
**Subject:** RE: Lagoon inspection

Jason,

Your request for an extension to the requirement to have the lagoon liner evaluated and repairs completed has been granted. Below are the conditions from the Certificate of Use letter that was sent to you on 7/29/2021 with the revised dates shown in red.

Please note that safety features still need to be installed by the end of October.

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Approval of the certificate of use is contingent on the following items being brought into compliance by the dates identified:

- Develop/update and submit a nutrient management plan by 6/1/2022. A nutrient management plan meeting NRCS Technical Standard 590 Nutrient Management is required for all manure stored in the manure storage facilities associated with this certificate of use. Cost share funding may be available to assist with the development of a nutrient management plan. If you intend to apply manure during frozen and/or snow covered conditions you must submit an application for a Winter Spreading Permit by October 15, 2021.
- Conduct an engineering evaluation to determine the integrity of existing manure storage facility by **11/30/2021**. LWRD staff observed burrow holes in the manure storage facility (Lagoon) earthen liner. An engineering evaluation conducted by a professional engineer is needed to determine the appropriate repairs to assure the integrity of the manure storage facility.
- Repair existing manure storage facility by **11/30/2021**. The manure storage facility (Lagoon) is required to be repaired to meet applicable technical standards and receive approval to store manure under the certificate of use. Manure storage permitting may be required depending on the scale of the required repairs.
- Install safety devices by 10/31/2021. The following safety devices shall be installed in order to meet the conditions of this certificate of use:
  - Safety fence around the perimeter of the Lagoon facility.
  - Grating or a structural cover over the opening in the transfer structure located on the southwest corner of the Lagoon.



**Seth Ebel**  
**Agricultural Engineer**  
**Dane County Land & Water Resources Department**  
5201 Fen Oak Drive #208, Madison, WI 53718  
Cell: (608) 516-2639