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Responsiveness Summary to public comments on the Reyskens Dairy draft Permit to Install and Permit to Operate May 21, 2012

On November 30, 2011, the Ohio Department of Agriculture issued a public notice of the Reyskens Dairy draft Permit to Install and Permit to Operate. This public notice opened the public comment period on the draft permits and informed the public that persons could submit written comments and/or request a public meeting on the draft permits. Because of requests for a public meeting submitted pursuant to Ohio Administrative Code 901:10-6-04(D), a second public notice was issued of the Reyskens Dairy draft Permit to Install and draft Permit to Operate on January 11, 2012. This public notice informed the public that a public meeting would be held on February 22, 2012 to accept comments on the draft permits. The comment period ended at 5:00 p.m. on February 29, 2012.

The Director of Agriculture's final decision on the draft permits must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permits and the way in which the draft permits comply with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control by addressing such topics as siting criteria, geologic conditions, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Similar comments are grouped and summarized.

No.	Date Received	Name	Organization, if any	City, State
1	2/22/2012	John Bresler		Bloomdale, OH
2	2/22/2012	Tim Dussel		Fostoria, OH
3	2/22/2012	Dave Housholder		Portage, OH
4	2/22/2012	Jack Firsdon		Wayne, OH
5	2/22/2012	Larry Askins		Cygnet, OH
6	2/22/2012	Tom Harrison		Wayne, OH
7	2/22/2012	Vickie Askins		Cygnet, OH
8	2/24/2012	Daniel M. Dawley M.D.		Cygnet, OH
9	2/27/2012	John Bresler		Bloomdale, OH
10	2/29/2012	Jack Firsdon Larry and Vickie Askins		Wayne, OH Cygnet, OH
11	2/29/2012	Kristen B. Vessey		Bowling Green, OH

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1. Public notice in newspaper

Revised Code 903.09 states that the ODA shall publish the notice of the permit in a newspaper of general circulation. Where was it published? In Perrysburg. Now consistently these hearings have been published in the Sentinel. Where are most of the constituents that are involved with these CAFOs that we have in the County? Where are they at? In southern Wood County. Why would it be published in Perrysburg? It seems like the democracy of the people to know what is going on is being prohibited.

According to ORC 903.09 – Issuance of draft permits: "The director or the director's representative shall mail notice of the issuance of a draft permit to the applicant and shall publish the notice once in a newspaper of general circulation in the county in which the concentrated animal feeding facility or discharger is located or proposed to be located."
The ODA has always published their public notices in the Bowling Green Sentinel-Tribune. For the first time, the ODA published the Reyskens Dairy draft permit public notice in the Perrysburg Messenger which according to the website is a weekly "newspaper with an emphatically local focus. If it happened in Perrysburg... read about it in the Messenger Journal." This newspaper is located in the northernmost part of Wood County whereas the Reyskens Dairy is located in the southernmost part of Wood County. It is highly doubtful there are many subscribers to the Messenger are within a five-mile radius of the Reyskens Dairy. Why did ODA publish the public notice for this draft permit in the Perrysburg Messenger when these public notices are mandated to be published "in a newspaper of general circulation in the county"?

Kevin Elder commented in a Sentinel-Tribune article "the decision to publish the notice in a community newspaper satisfied all legal requirements and was an 'economic decision.' The community newspaper had lower rates on its legal ads." What were the rates charged by these two newspapers to publish this public notice?

Response:
Ohio Revised Code (ORC) 903.09 requires that a public notice of a draft permit be published once in a newspaper of general circulation in the county in which the concentrated animal feeding facility (CAFF) is located or proposed to be located. The Perrysburg Messenger is a newspaper of general circulation in Wood County and therefore legally able to publish public notices on behalf of State agencies. A copy of the public notice was sent to the local public officials and posted on ODA's website. The Sentinel Tribune charged $180.00 for the last public notice they published on behalf of ODA. The Perrysburg Messenger charged $89.00.

2. Copy of permit to Commissioners/Trustees
A copy of this permit is supposed to also be sent to the Wood County Commissioners. Did they get a copy of this? Did they pass a copy on to the engineers? No, I don't think they did. Did the Jackson Township Trustees get a copy of this permit? I don't believe they did.

ORC 903.09 also requires - "The director shall mail notice of the issuance of a draft permit and a copy of the draft permit to the board of county commissioners of the county and the board of township trustees of the township in which the concentrated animal feeding facility or discharger is located" - but according to one of the Commissioners, the ODA failed to comply with this statute. Did the Director send a copy of the draft permit to the Wood County Commissioners as required by ORC 903.09?

Did the ODA send a copy of the public notice, fact sheet and the draft permit to the Jackson Township Trustees as required by ORC 903.09?

Response:
The Wood County Commissioners as well as the Jackson Township Trustees were served with a copy of the draft permit and the public notice as required by ORC 903.09. Note that ORC 903.09 does not require that fact sheets be sent to local officials as indicated by the commenter. Fact sheets are provided as a courtesy.

3. Written statement from Commissioners/Trustees
According to ORC 307.204(B)(3) and ORC 505.266(B)(3) – If a person proposes to - "Increase the design capacity of an existing concentrated animal feeding facility by ten per cent or more in excess of the design capacity set forth in the current permit for construction or modification of the facility". The Dairy is increasing from 1,800 to 2,000 which would equate to more than ten per cent. According to ORC 903.02(C)(4)(a) there was supposed to be a "written statement from the board of county commissioners...certifying that...the applicant has provided the board with the required written notification and that final recommendations were selected regarding improvements, if any, to county infrastructure that are needed as a result of the new or expanded concentrated animal feeding facility and the costs of those improvements." There was no copy of a "written, dated statement" from the board of county commissioners in the permit. Did the ODA obtain a copy of this statement and, if so, why wasn't it included in the draft permit?

There was also supposed to be a similar written statement from the Jackson Township board of trustees. Did the ODA obtain a copy of this statement and, if so, why wasn't it included in the draft permit?

According to the ORC, there were supposed to be notarized affidavits from the board of county commissioners and the board of township trustees. Did the ODA obtain copies of those affidavits and, if so, why weren't those copies included in the permit?

ORC 903.02 requires that the director shall "deny a permit to install" if "the permit application contains misleading or false information." If the commissioners and trustees did not sign statements or affidavits as required by the ORC, will the Director deny this PTI?

Response:
The commenter is referring to provisions in ORC 505.266 and 307.204, which are inapplicable to this permit application. The requirement in those sections for a facility to obtain either a written statement certifying the selection of final recommendations regarding infrastructure improvements or in the alternative for the applicant to submit a notarized affidavit only applies to major concentrated animal feeding facilities (MCAFFs), which are defined in ORC 903.01(N) as "a concentrated animal feeding facility with a total design capacity of more than ten times the number of animals specified in any of the categories in division (M) of this section." For dairy cattle, the design capacity figure specified in ORC 903.01(M) is 700 mature dairy cows. Therefore a dairy would have to propose the construction of a facility housing more than ten times that number—7000 mature dairy cows—to fall within the scope of ORC 903.01(N), 307.204 or 505.266. See, in particular, ORC 505.266(B) and 307.204(B) respectively, which state that the sections apply to facilities that are seeking to build a new MCAFF (ORC 505.266(B)(1)/ORC 307.204(B)(1)), proposing to expand an existing MCAFF by ten percent or more (ORC 505.266(B)(2)/ORC 307.204(B)(2)), or proposing to expand an existing CAFF by ten percent or more "and to a design capacity of more than ten times the number of animals specified in any of the categories in division (M) of section 903.01 of the Revised Code" (that is, an MCAFF as defined under ORC 903.01(N) above) (ORC 505.266(B)(3)/ORC 307.204(B)(3)).

Reyskens Dairy's permit applications propose a design capacity of 2000 mature dairy cows, which lies considerably below the design capacity of 7000 mature dairy cows under which ORC 903.01(N), 505.266 and 307.204 would apply to the facility.

4. Local notification letters
Why did the ODA include a letter in this draft permit from the Dairy to Township Trustees in Massillon, Ohio, which is in Stark County?

Response:
The comment is referring to a letter in the draft permit intended to satisfy the local notification requirement of OAC 901:10-1-02. The applicant inadvertently addressed one of these letters incorrectly. A revised local notification letter was sent to the Jackson Township Trustees and a copy is included in the draft permit. Note that Jackson Township officials were served with a copy of the draft permit and public notice; contacted by ODA prior to public notices of the draft permits and public meeting; and were represented at the public meeting on February 22, 2012.

5. Public participation/permit issuance process
Please explain why the ODA would be allowed to violate these regulations?

Will any of these violations of the Ohio Revised Code result in the denial of this draft permit?

Would these violations result in a reissuance of this public notice?

Would these violations result in another public meeting?

Response:
See also the responses to other comments in this responsiveness summary. The purpose of the public comment period and public meeting are to ensure that public comments pertinent to the draft permits can be considered by ODA as part of the permitting process. ODA reviews oral and written comments submitted during the public comment period to determine whether revisions to the draft permit are needed to ensure the permit complies with ODA laws and regulations. This responsiveness summary and any corrections/changes made to the permit in response to public comments are presented to the Director so that he can consider the comments and responses in making his final decision on whether to issue or deny the permits.

6. Inspection letter
According to an ODA Inspection Report signed on 6/2/11 – the "PTO Renewal application [was] submitted July 5, 2011." How could the ODA inspector predict in June that this PTO application would be submitted in July?

Response:
The need for the facility to submit their PTO renewal application was discussed during the June 2, 2011 ODA inspection. The application was received by ODA on July 5, 2011. The inspection report for the June 2, 2011 inspection and its cover letter were sent to the facility on July 13, 2011. Those documents noted the receipt of the PTO renewal application because ODA had received it after the inspection took place but before the mailing of the inspection report and cover letter.

7. Approval of PTO
Included with other public records the ODA sent to Jack Firsdon in July 2011, there was a letter from the Director which pre-approved the Reyskens PTI and PTO in November 2011. Please explain how the Director could foresee the approval of this PTO.

Why would the ODA write an approval letter before this draft permit was public noticed?

Response:
The commenter did not attach a copy of the document to which the commenter is referring, so it is unclear what document the commenter believes was a "pre-approval" or an approval letter. Pursuant to ORC 903.09 a draft permit must first be issued and subject to a public comment period before a final permit can be issued. A final permit has to be signed as a final order by the Director of Agriculture after the completion of the processes outlined in ORC 903.09. Permits are not considered approved until the Director signs the final order issuing the final permit. ODA did not issue a renewal permit to Reyskens Dairy in July 2011 or November 2011.

8. Permit status
Did the Reyskens Dairy PTI expire on 9/1/2011?

Did the Dairy submit a written request for the PTI extension request in a timely manner?

Did the Director approve a PTI extension?

Did the ODA receive the Reyskens Dairy's PTO renewal application before 4/5/2011 as required?

If this application was not received by the Director in a timely manner, did the Dairy submit a new PTI request for the last freestall barn to expand the cows to 1,800?

Response:
ODA received the PTI/PTO application on July 5, 2011 to expand Reyskens Dairy to 2,000 cows. Instead of submitting an extension request, the facility submitted the PTI application to increase its design capacity.

9. Review of application
Many of the documents in this draft permit were date-stamped November 17th. Taking into consideration that the date of Issue of the Public Notice was November 30th and this period would include the Thanksgiving holiday, does that mean the ODA staff reviewed all of these revised documents in only six workdays?

Response:
Documents received on November 17, 2011 were reviewed prior to issuance of the public notice on November 30, 2011.

10. Engineering firm
Did the new engineering firm, TriCar LTD, re-design the expansion plans or did they use the previous engineer's plans?

Response:
Facilities choose the professional engineer(s) they wish to have complete their permit applications or PTI application revisions on their behalf. ODA is not involved in those decisions. The facility's engineer chooses how to design a facility; ODA's role is to ensure that any submitted plans conform to the requirements of applicable ODA law and regulations.

11. Manure pond leakage
No city or government would allow the pooling of large manure bins for local waste. These have caused problems in other areas of the country. It will happen at some time that this will leak massively and destroy the larger local area.

Weather people anticipate climate change here (the USDA has already changed our Ohio growing classification, plant hardiness, to a warmer zone 6) to include more precipitation that is

more intense and of longer duration: what changes does this new permit include that are precautionary in terms of preventing manure pond leakage or overflow?

Response:
For the production area, ODA rules require a minimum separation distance of 15 feet of low permeable soils between the bottom of the manure storage structure (waste placement) and the uppermost aquifer. In addition, a minimum of 3 feet of this material must have a hydraulic conductivity of 1×10^{-7} cm/sec or less, and this can be either in-situ or recompacted soil. At the Reyskens Dairy site, more than 15 feet of low permeable material and 3 feet of in-situ clay (less permeable than 1×10^{-7} cm/sec) are present. The minimum standards, contained in the rules, were developed, reviewed and recommended by a diverse group of scientific professionals represented by the ODNR Division of Soil and Water Resources, and Division of Geological Survey; USGS; USDA Natural Resources Conservation Service and Agricultural Research Service; Ohio EPA Division of Surface Water and Division of Drinking and Ground Waters, just for a few.

These standards for design of manure storage and treatment facilities have been utilized for over 40 years in Ohio without evidence of groundwater contamination from many installations. Since ODA has had the permitting program, all facilities have been testing their wells annually with none of the facilities having violated drinking water standards for nitrates or bacteria. Many of these facilities have been in place for many years, some dating back to the seventies and earlier. Also many of the local Soil and Water Conservation Districts have tested the wells on farms where these types of facilities have been installed. Many of these farms have also participated in the Heidelburg Water Quality Lab's tests of 25,000 wells performed over the years.

In addition, ODA rules require that earthen manure storage structures are designed to maintain adequate storage volume to accommodate the anticipated generation of manure in addition to the normal expected precipitation and runoff plus that from a 100-year, 24-hour storm event and an additional one foot of freeboard. The facility must regularly monitor manure levels and inspect the storage structures for structural integrity.

12. Waste production
According to the USDA this bigger farm will produce as much waste as the entire city of Bowling Green. The city of BG would not be allowed to have its waste water treated in this manner.

Response:
This comment asserts that Reyskens Dairy would generate a similar volume of waste as the City of Bowling Green. This is not the case. The City of Bowling Green wastewater treatment plant is permitted by Ohio EPA to discharge 10 million gallons/day (average design flow) of wastewater effluent directly to waters of the State. In addition there is an authorized combined sewer overflow to discharge untreated wastewater during high-flow rain events. By comparison Reyskens Dairy proposes to generate an average of only 74,000 gallons/day of combined waste and collected rainwater, with no authorization to discharge to waters of the State. Instead the draft permits propose that all organic nutrients will be managed and recycled on productive

agricultural cropland to replace commercial synthetic fertilizers in accordance with ODA rules and best management practices designed to protect water and soil resources.

13. Risk of discharges

This is not a benefit to our community and has a very high risk potential spreading contamination and disease throughout area ditches and perhaps destroying or damaging a lake, one of the largest fresh water reserves in the world.

Response:

Manure under the control of a CAFF is to be applied using best management practices (BMPs) and in accordance with ODA rules, with the intent to replace the more soluble chemical fertilizers that would otherwise be used to meet the nutrient demands on the same cropland. Rule 901:10-2-13 of the Ohio Administrative Code (OAC) requires that soil samples be taken at least once every three years for every 25 acres or less of the planned land application area. The most recent results of these samples are provided in the final permit in the Manure Management Plan (MMP). The land application of manure under the control of a CAFF must also follow setbacks to protect waters of the state. For instance, a setback of 35 feet of vegetative buffer or 100 feet, if not vegetated, is required for all surface manure application in Appendix A, Table 2 of Rule 901:10-2-14 to help protect waters of the state.

Application rate criteria are set forth in ODA's rules, and all of these criteria are evaluated to determine what the most limiting factor for the field is at the time of application. The application rate criteria includes - but is not limited to - the nitrogen needs of the crop being grown, phosphorous levels and the available water capacity of the soil (OAC 901:10-2-14). Based on this evaluation, the permitted application rate is determined and that application rate is used for that period of application.

Generally, the most limiting factors are the nutrients evaluated and, for liquid manure, the available water capacity (AWC) of the soils in the field. The AWC is often the most limiting factor for a single-time liquid manure application because the water holding capacity of the soil may be achieved in a single application before the allowable nutrients are applied. For further analysis of the available water capacity chart, refer to Appendix B of Rule 901:10-2-14.

In addition, depending on the time of year, additional nitrogen limitations are evaluated, as provided in ODA Rule 901:10-2-14(D). Additional criteria also heavily restrict application on frozen or snow-covered ground, as provided in ODA Rule 901:10-2-14(G).

As described in Rule 901:10-2-14(E), the application rate for phosphorous is determined using soil test data, the phosphate requirements for the planned crop or crop rotation, and either the phosphorous index risk assessment procedure in Appendix E, Table 1 or the phosphorous soil test risk assessment procedure in Appendix E, Table 2 of the rule.

OAC 901:10-2-14(C)(6) restricts surface manure application based on precipitation forecasts to minimize any impact from rainfall causing manure to leave the application site.

14. Design capacity of facility

There are many questionable references to the number of cows at the facility vs. the capacity of the Dairy in ODA Inspection Reports and in this draft permit.

Why don't the capacity numbers on the May 2010 construction plans in this draft permit agree with the animal numbers on page 11 (of 12) in this draft permit?

Why did the 2006 approved permit show that Barns #1 and 3 design capacity was 765 each – but the 2012 permit shows only 505 and 546?

Response:

These comments appear to express confusion with changes in facility and barn design capacities at the dairy over the past several years. The design capacities of individual barns are generally based on the number of freestalls. The ODA final permits effective August 6, 2004 authorized Reyskens Dairy to expand to a design capacity of 925 mature dairy cows. The proposed facility layout included two freestall barns with design capacities of 786 and 139 cows. The ODA final permits effective October 2, 2006 authorized Reyskens Dairy to expand again, this time to 1800 mature dairy cows with a proposed facility layout that included three freestall barns with design capacities of 765, 270, and 765 cows. On September 13, 2007, ODA authorized a Major Operational Change (MOC) to those final permits in accordance to OAC 901:10-1-09. The MOC requested to maintain a total facility design capacity of 1800 cows but to decrease the design capacities of the three freestall barns (by removing/reducing individual stalls) and to construct a fourth freestall barn. The rationale for stocking the same number of cows in a larger building footprint was to improve overall herd management by maximizing cow comfort and providing additional floor space for improved manure handling. The proposed design capacities of the four freestall barns were changed to 498, 268, 544, and 490 cows. The fourth freestall barn proposed in the MOC has not yet been constructed. The maximum number of animals at the facility is currently 1440 mature dairy cows. The draft permits propose a total facility design capacity of 2000 mature cows with the four freestall barns having revised design capacities of 505, 268, 546, and 546 and a proposed fifth freestall barn having a design capacity of 135 cows.

15. Construction to prevent discharges

Was an "impermeable barrier to prevent production area runoff from discharging to waters of the State" included on the new construction plans?

Was a "plan to permanently prevent the discharge of contaminated storm water" developed and is a solution part of the new construction plans?

Will all silage leachate and contaminated water be contained from the southeast corner of the silage pad on the new construction plans?

Was the berm at the end of the concrete driveway, north of the sand basin and southeast of the silage pad, raised to prevent overflow during periods of high flow production area run off?

North Point Engineering sent the Ohio EPA a letter on November 21, 2008, describing plans to eliminate future discharges but much of this work was never completed. Have all of these modifications been included on the new plans?

Has this facility been modified by the new engineer to correct the flaws exposed by the Ohio EPA with the prior engineer's plans?

Has this dairy been illegally discharging for the past 5 years? Has anyone established that the expanded dairy will be redesigned to prevent these illegal discharges?

Response:
The Dairy has worked with Ohio EPA and ODA to eliminate any discharges resulting from silage leachate entering the clean stormwater pond. Temporary measures were installed by the Dairy to prevent future discharges until permanent measures could be put in place as outlined in the draft permit. The draft permit proposes to capture and contain all sources of manure, leachate, and contaminated stormwater resulting from normal precipitation and runoff as well as a 24-hour storm event with a 100-year return interval.

16. Construction plans
Will the required sand lanes be constructed?

Will the required solids separator be added?

Is there a valid plan to separate clean stormwater from potential contamination?

Will two additional manure storage ponds be constructed?

Will the existing silage pad be expanded?

Response:
The draft permit proposes to construct sand lanes to separate and recycle sand solids. Further separation of solids would occur in the primary settling basin. Contaminated stormwater and washwater, which are both technically considered manure in ODA rules, would be segregated in the two proposed storage ponds. The draft permit proposes to expand the silage pad.

17. Criteria for decision-making
OAC 901:10-1-03, Criteria for decision-making, states that (A) Criteria for decision making by the director. The director shall deny, modify, suspend or revoke a permit to install or permit to operate if: (1) The permit application contains misleading or false information...or (2) The designs and plans fail to conform to best management practices...or (3) The plans for the manure management plan...governing the operation fail to conform to best management practices ...or (4) The director determines that the designs and plans describe a proposed discharge or source for which a NPDES permit is required under this chapter...or (5) The facility is not designed or constructed as a non-discharge system or operated to prevent the discharge of pollutants to waters of the state or to otherwise protect water quality. According to the Ohio EPA, the Reyskens Dairy was not designed as a non-discharge facility and therefore the

application contained false and misleading information. In addition, the designs and plans failed to conform to best management practices. Since this facility has never been designed properly and the Dairy has not obtained an NPDES permit as required, please explain how the Director could possibly approve this draft permit.

Response:
The facility's engineering plans as submitted in the pending permit application conform to best management practices, as well as ODA rules, and propose a non-discharge system for the facility. The facility has applied for an NPDES permit from Ohio EPA. ODA is not currently authorized to issue NPDES permits under Chapter 903 of the Revised Code.

18. Manure Management Plan
Unlike the prior MMPs, why did this Plan contain No Manure Application Plan?
Isn't the M.A.P. the part of the permit that provides data on the 4 Rs – source / place / time / rate?

ODA and agribusiness stakeholders have eagerly adopted the 4Rs - - right source, right time, right place and right rate. How could the Dairy or the ODA possibly know any of these "Rs" when there is no Manure Application Plan in this draft MMP?

Since there is no M.A.P., how would the Dairy know where and when to apply manure for the next five years?

How would the Dairy know which fields are eligible for manure without this Plan?

Unlike the prior MMPs, why did this Plan contain No Field Nutrient Balance Plan?

How could the Dairy know how much commercial fertilizer to apply to manure fields for the next five years without a Field Nutrient Balance Plan?

How could the ODA determine what the "Predicted Soil Test P (ppm) at end of plan period with avg application rate (only manure P added)" without a Field Nutrient Balance Plan?

How would the Dairy know which fields are eligible for manure without this Plan?
Unlike the prior MMPs, why did this Plan contain No Nutrient Management Plan (Planned Crop Rotation Chart)?

How could the Dairy know which crops to plant on which fields in order to utilize the nutrients in the manure agronomically without a Nutrient Management Plan?

Since there is no Nutrient Management Plan – how would the Dairy know what amount of manure they are allowed to apply to the manure application fields in 2012 - 2016?

How would the Dairy know which fields are eligible for manure without this Plan?

Response:
The comments associated with the "Manure Application Plan", "Field Nutrient Balance Plan", or "Nutrient Management Plan" appear to be referring to the titles assigned to specific reports generated by a proprietary software program called the Manure Management Planner, also commonly called the Purdue Planner. In the previous permit, the facility chose to use this particular software tool to present the manure management plan (MMP). However, use of the Purdue Planner software is not required by ODA rules, and in preparing the current draft permit, the facility did not choose to use it again. The draft permit includes an MMP that satisfies the requirements of OAC 901:10-2-08 through 901:10-2-16. These ODA rules impose detailed requirements on the permittee governing the timing, rates, and placement of manure for land application to best utilize manure nutrients to satisfy planned crop requirements while protecting water and soil resources.

The MMP in the draft permit demonstrates that an adequate base of land application acres is available to utilize the nutrients generated by the facility. Detailed specific information regarding the timing, rate and placement of nutrients is based on a number of variables that would be determined at the time of land application. Facility operating records will be maintained to ensure compliance with the plan and the rules outlined above.

The proposed application fields included in the manure management plan are shown on the exhibit titled "Overall View of Fields for Manure Application" in the draft permit.

A more detailed crop rotation plan has been included in the draft permit. As a result of slight changes in the anticipated crop acres, the MMP spreadsheets in the draft permit have been revised. Note that the overall nutrient removal for the application fields still exceeds the anticipated nutrient applications.

19. Field-specific assessment
Extremely critical information regarding how the dairy is supposed to dispose of millions of gallons and mega tons of manure is conspicuously missing. This manure plan contains no field specific assessment that addresses the form, source, amount, timing and method of application of nutrients on each field as required by State and Federal laws. So how is this dairy supposed to know what to do?

Response:
The draft permit includes a manure management plan that satisfies the requirements of OAC 901:10-2-08 through 901:10-2-16. These ODA rules impose detailed requirements on the permittee governing the timing, rates, and placement of manure for land application to best utilize manure nutrients to satisfy planned crop requirements while protecting water and soil resources.

The MMP in the draft permit demonstrates that an adequate base of land application acres is available to utilize the nutrients generated by the facility. The specific timing, rate and placement of nutrients are based on a number of variables that would be determined at the time of land application. Facility operating records will be maintained to ensure compliance with the plan and the rules outlined above.

20. Manure data from another facility

According to OAC 901:10-2-10 – " For an existing facility that will continue to have similar manure storage or treatment facilities with no change in treatment technology, the manure shall be characterized utilizing an actual sample from the facility." Why did the Dairy use manure characteristics and nutrient data from the Hijma Dairy in Kenton, Ohio, instead of a sample from their facility?

Response:

This comment is referencing the nutrient analysis used for the proposed contaminated stormwater pond in the draft permit. Reyskens Dairy does not currently have a contaminated stormwater pond or a system in place to segregate contaminated stormwater from the rest of the liquid manure. So an actual sample from the facility was not available for analysis. Therefore a nutrient analysis was utilized for a contaminated stormwater sample from a similar facility as provided in OAC 901:10-2-04(B) and OAC 901:10-2-10(A).

21. Phosphate production

Appendix to rules 901:10-2-04 and 901:10-2-10: Daily manure production and characteristics, as-excreted (per head per day) shows a 1,400 lb. lactating dairy cow produces .52 lb/P205/day.

Since Reyskens Dairy is expanding to 2,000 cows, according to the data for lactating dairy cows in this Appendix, 2,000 cows would produce 379,600 lbs/P205/yr, but this draft MMP shows only 193,830 lbs/P205/year. This would equate to approximately HALF the P205 generated according to the newly-revised Appendix.

Why would the ODA accept the Dairy's estimate above which would account for only half the manure P205 actually produced by 2,000 cows?

The amount of phosphorus produced by the cows in this permit has decreased dramatically from the original permit.

Is the Appendix to OAC 901:10-2-04 and -10 the ODA's numeric nutrient standards? If yes, why didn't the ODA utilize this standard in the Reyskens draft MMP?

Response:

If an existing facility wishes to expand or renew a permit, ODA generally requires the applicant to use the best available historic data specific to their facility in developing their manure management plan. The best measure of nutrients removed from a facility is calculated by actually measuring the nutrients by taking samples of the manure to have actual laboratory tests performed. Indeed, OAC 901:10-2-10(A) specifically provides that "for an existing facility that will continue to have similar manure storage or treatment facilities with no change in treatment technology, the manure shall be characterized utilizing an actual sample from the facility." (Emphasis added.) Use of the tabular data in the Appendix to OAC 901:10-2-04 and OAC 901:10-2-10 is authorized under OAC 901:10-2-10(A) *only* when the facility is new or is proposing a change in treatment technology where no previous sample data is available. ODA requires owners and operators to regularly obtain laboratory analyses of the manure nutrient content from their facilities. This information is specific to the management and design of a

facility as well as to the specific management and diet of the animals at that particular facility. The manure management plan in the draft permit is based on the average nutrient content of actual samples from the facility as determined by laboratory analyses of those samples. The only exception is the new contaminated stormwater pond proposed in the draft permit to install; as noted in the response to comment #20, a sample from a similar contaminated stormwater pond was used in this instance because Reyskens Dairy does not currently have such a pond.

In the event that future manure analyses indicate a higher manure nutrient content than have been historically observed at the facility, then land application must still be made in accordance with ODA rules in OAC 901:10-2-14. If future analyses indicate a lower manure nutrient content, then adjustments to the land application rates would need to be performed as well. If the facility experienced significant and unforeseen changes in the nutrient content of the manure, then the manure management plan would be modified in accordance with ODA rules.

The table used in the Appendix to OAC 901:10-2-04 and OAC 901:10-2-10 is based on an Iowa State University publication called the Midwest Plan Service, MWPS-18 (Characteristics of Manure), published in 2005. This table provides estimates of the nutrient content of "as-excreted" manure, meaning that the effects of long-term storage in a multi-stage system are not considered (e.g., dilution, microbial activity, settling, volatilization, etc.). In addition, the caveat in the table's header reminds readers that the actual characteristics of the as-excreted manure can vary by 30% from values in this table due to genetics, dietary options, and variations in feed nutrient concentration, animal performance, and individual farm management.

Note that the total estimated phosphorus content of all manure to be annually land applied by this facility has not decreased from the previous permit as implied by the commenter.

22. Phosphorus in animal feed

Kevin Elder said after the February 22nd Public Meeting that the feed ration reduces the phosphorus content of manure by 40%. Please explain the science behind this statement. Also explain how this relates to standards in the Appendix to OAC 901:10-2-04 and -10 which shows a 1,400 lb. lactating dairy cow excretes .52 lbs/P205/day.

When questioned at the ODA Public Hearing on February 22nd how the total P205 produced by this Dairy could be so much less than the numbers according to the ODA's Appendix, Kevin Elder stated that the feed rations could reduce the P205 produced per cow by 40%. Please explain and offer scientific facts to support this claim.

Response:

These comments appear to question the generally accepted fact that a reduction in the excess dietary phosphorus intake for dairy cattle corresponds to less phosphorous in the excreted manure. Refer to *Journal of Dairy Science* 87:2314-2323 (Aug. 2004). Succinctly stated, the amount of phosphorus consumed by an animal directly affects the amount of phosphorus coming out.

Refer also to the response to comment #21.

23. Phosphorus test levels

When asked at the ODA public hearing on February 22nd at what STP level a field would be removed from a MMP, Kevin Elder replied – when STP exceeds 40 ppm. Will all of the fields on the ODA Manure Management Tool spreadsheet that show a starting soil test P value in excess of 40 ppm be removed from this permit?

Kevin Elder said after the Public Meeting there should be no manure application to fields that exceed 40 ppm STP. Please explain why there are so many fields on the ODA Manure Management Tool chart in this draft MMP with STP values greater than 40 ppm. Will these fields be removed from this MMP and does that mean there are insufficient acres to utilize nutrients at agronomic rates for the manure produced by this Dairy?

Response:

The draft permit would allow the application of manure, biosolids, or synthetic commercial fertilizers to all of the fields included in the manure management plan, if done so in accordance with ODA rules. The average soil test phosphorus (P) values for the application fields are within the allowable range for the planned crops. For additional information about restrictions on phosphorus applications, refer to OAC 901:10-2-14.

24. Soil test results

According to the Ohio Administrative Code the manure management plan shall contain information on the soil of the land application areas. Soil samples shall be analyzed to plan for nutrient utilization at recommended agronomic rates and to minimize nutrient runoff to the waters of the state. According to soil tests in the last manure management plan versus this draft manure management plan:

Field #1	*2003 = 36 lbs* *2010 = 90 lbs up 150%*
Field # 9	*2004 = 48/44/56 lbs* *2010 = 62 lbs up 25%*
Field # 29	*2008 = 70 lbs of P* *2011= 98 lbs of P up 40%*
Field # 31	*2008 = 50 lbs P* *2011 = 83 lbs for 14 acres/60 for 14 acres = 71.5 lbs total P average - up 30%*

Why does the ODA state that STP values decrease over the 5 year permit period? Please explain why these soil tests increased from the prior MMP.

According to the last permit the soil test phosphorus levels were supposed to decrease when in fact they have increased.

Why does ODA allow these fields to be used for more manure application?

Please explain how the "ODA Manure Management Tool" prepared 5/15/11 and included in this draft MMP could "predict" that the soil test values at the end of this Plan would decrease when the above tests actually increased.

Why would the ODA predict reductions in Soil Test P on the ODA Manure Management Tool chart included in this draft permit when many of the soil tests have increased from the soil lab tests in the previous MMP?

Response:
The commenters note that a small number of the application fields in the draft permit demonstrate increased average soil test P values from previous sampling events. However, when all of the application fields in the draft permit are considered, the majority of the fields have actually trended towards decreased average soil test P values from previous sampling events. It should be noted that a simple "apples to apples" comparison of these average soil test P values is of limited utility due to variations in the sizes of the data sets. Many of the older soil tests represented 20 or 25 acres each, while the recent testing has trended toward much more intensive sampling on 2-1/2 acre grids.

Generally speaking, individual soil test results can exhibit some variability even when samples are retrieved from the same soil type in the same field at the same time and subjected to the same laboratory extraction methods. This variability is attributable to the inherently complex nature of soil fertility and testing and can be affected by an array of interacting factors. Soil tests are intended for use as an index or assessment of overall soil fertility to predict a biological crop response to nutrient inputs, based on regional research (primarily from land grant universities).

Despite apparent fluctuations in soil test P values over time (both increasing and decreasing values), the average soil test P results for the application fields remain within the allowable range for the proposed crops and conform to the requirements of OAC 901:10-2-14.

The predicted decreases in soil test P values are generally based on a forecasted nutrient deficit, where the overall rate of crop nutrient removal exceeds the rate of nutrient applications. The manure management plan in the draft permit demonstrates that the anticipated crop nutrient removal rate for the land application fields will exceed the expected rate of manure nutrient application.

25. Planting
A lot of the acreage in the area of Reyskens never got planted last year with the wet spring, how is ODA scrutinizing the fact of these acres actually absorbing these nutrients or is some of this getting filed for preventive planting. Are you checking that out?

A significant amount of the farmland in the Reyskens Dairy area went unplanted in 2011. How is the Ohio Department of Agriculture scrutinizing this situation? How many of the acres in the Reyskens Dairy permit produced crops in 2011 to absorb some of the excess nutrients?

Response:
The September 28, 2011 ODA inspection report noted that for the 2011 crop year, a total of 245 acres of land application fields were designated as "prevented planting", meaning the field did not get planted to the planned crop as covered by the prevented planting provisions of a crop insurance policy. These particular fields were seeded with cover crops to hold nutrients for the following crop (2012). All nutrients applied for the 2011 crop that was planned, but not grown, will be accounted for with the 2012 crop.

26. Field 30
According to ODA Inspection Report for the inspection on 5/19/08 for the Will Farm (Farm #30), the Dairy applied almost 13,000,000 gallons in 2008 as well as additional manure applications on this same farm in subsequent years. How much total phosphorus did the Dairy apply to Farm #30 since 2008?

In 2008 the inspector's report indicated that the dairy had applied almost 13 mil gallons on that 200 acres. Almost all the liquid produced for that dairy in 2008. Now according to the dairy's own manure analysis that means that that dairy applied 460 maybe 500 lbs of P205 on that field. They applied more in 2009 and then in 2010 they took a soil test, on that same farm, farm 30 that phosphorus level was 50 lbs of phosphorus. It went down 10. Now shortly after that soil test in 2010, an additional 300 lbs of P205 was added to the same farm again. Now somewhere in that ODA inspector's report he has indicated from his numbers that they would be over 400 lbs of P205 per acre that was not removed by the crop that is accounted for. Why did you approve a permit in 2006 indicating that approximately 20 farms were supposed to be used for manure application and you allowed them to apply it all to one? How could the dairy add 400 lbs of phosphorus, more than the crop can remove, and the soil test go down?

Please explain how these applications complied with the ODA's rules to utilize nutrients at agronomic rates (OAC 901:10-2-14 and 901:10-2-10).

In 2008 they took a soil test for that farm and that soil test read 60 lbs per acre phosphorus P. After all of this manure was over applied to Farm #30, please explain how the 8/31/2010 soil test could possibly have decreased by 10 lbs/P205/acre.

There were no laboratory soil tests for Field 30 (Will Farm) in this draft MMP. Why didn't the ODA require the Dairy to obtain a new soil test since this field has clearly received the majority of the manure produced by this facility since 2008?

The ODA Manure Management Tool shows "Avg Nutrients Applied (lbs) per acre per year" is only supposed to be 58 lbs/P205/acre? This farm is tiled. Please explain where all the additional P205 on Farm #30 went.

According to a recent ruling by a federal district court judge in Washington State, a CAFO was ordered to monitor groundwater, drainage, and soil for illegal pollution resulting from its grossly inadequate manure management practices in violation of the Clean Water Act. Based on the egregious over application of manure on the Will Farm (Farm #30) that has already taken

place, will the Dairy be required to monitor groundwater, drainage, and soil for illegal pollution?

Would this comply with best management practices to insure appropriate agricultural utilization of the nutrients in the manure in accordance with 40 C.F.R. Part 412 - since Reyskens must comply with the CWA in order to get an NPDES permit and the ODA is requesting permitting authority over NPDES Program?

Farm land is supposed to grow some kind of crop – it's not supposed to be a dumping ground. Will ODA allow the Reyskens Dairy to apply more manure on Farm #30 in this new MMP?

Response:
The various comments directly, or indirectly, related to Field #30 (the "Will Farm") all appear to be based on information originally contained in the May 19, 2008 ODA inspection report for Reyskens Dairy. In that inspection report, the volume of manure applied to Field #30 was incorrectly characterized for the timeframe of May 7, 2008 through November 13, 2008 because some information was inadvertently omitted. As originally written, the inspection report appeared to indicate that 11,667,000 gallons of manure was applied to the Will Farm (Field #30) during this timeframe. But this was not the case.

In order to clarify the information contained in the May 19, 2008 ODA inspection report, ODA staff recently reviewed detailed information from the operating records maintained at the facility regarding manure applications to Field #30. This review indicated that the facility did indeed land apply 11,667,000 million gallons of manure from May 7, 2008 through November 13, 2008, but that manure was applied to a total of nine different fields, not just Field #30. Only 1,428,000 gallons of manure were actually applied to Field #30 during this timeframe. The ODA inspection report would have been clearer if it had broken this information down to show that from May 7, 2008 through November 13, 2008, a total of 1,428,000 gallons of manure were applied to Field #30, while the remaining 10,239,000 gallons of manure were applied to eight other fields which total 750 acres.

In summary, there have been no apparent over-applications of manure by Reyskens Dairy to Field #30 or any other field. In fact, the ODA inspection reports and the facility operating records reveal that for the period of April 2008 through August 2010, the rate of crop nutrient removal exceeded the rate of manure nutrient applications. The apparent drawdown in the soil test P values for Field #30 (from the April 24, 2008 soil sampling event to the August 31, 2010 sampling event) would corroborate this data and indicate an overall under-application of P. The average soil test P values for Field #30 continue to be within an acceptable agronomic range for the proposed crops and conform to the requirements of OAC 901:10-2-14.

The 2010 soil test data for Field #30 was included in spreadsheet form in the draft permit. A copy of the actual laboratory soil test report for Field #30 was included in the July 5, 2011 permit application submittal, but it was inadvertently omitted from the draft permit. The soil test report for Field #30 has been added to the draft permit.

27. Application on limited numbers of fields
According to the last permit millions of gallons of manure were supposed to be applied to many fields but in fact were over applied to only a few. These farm fields are not toilets and Lake Erie is not a septic tank. Why does the ODA allow this to happen especially in light of the alarming nutrient crisis in Lake Erie?

According to public records, Reyskens has applied most of their manure on seven fields, the majority to the Will Farm even though the previous MMP included 31 fields. Why did the ODA allow them to over apply to some fields but apply no manure to others?

Ohio lakes are being inundated with excessive nutrients and toxic algae blooms. Why is the Ohio Department of Agriculture allowing this CAFO to over apply manure on saturated farm fields?

Response:
To date, the detailed ODA inspections of the facility's records have not indicated any instances of over-application of manure nutrients. See also response to comment #26.

28. Double cropping
How, when, and where is manure going to be applied to the 400 acres shown to be "double cropped" on the Total Manure Quality and Estimated Nutrients spreadsheet in this draft permit?

Shouldn't this 400 acres expected to be double cropped be removed from the spreadable acreage in this draft MMP since these acres are included twice?

Response:
ODA assumes the comment is expressing confusion regarding the definition of the term "double cropped", which generally means sequentially growing two crops in a single field during the same time frame in which a single crop might otherwise be grown. In regards to the manure management plan in the draft permit, this phrase specifically refers to the practice of planting a wheat crop in the fall to be harvested the following summer. Following the summer harvest of the wheat crop, a soybean crop is planted in the same field and then harvested later in the fall. In such an instance, the total number of acres available for growing a crop or for land application of nutrients does not change. In the draft permit there are no acres "counted" twice.

A more detailed crop rotation plan has been included in the draft permit. The revised plan indicates a decrease in the number of acres on which double-cropped soybeans will be grown. As a result of slight changes in some of the anticipated crop acres, the MMP spreadsheet in the draft permit has been revised. Note that the overall nutrient removal for the application fields still exceeds the anticipated nutrient applications.

29. Solid manure production
In the first MMP with 925 cows, they would produce 6,077 T of solid manure. In the next MMP for 1,800 cows, they would produce 13,140 T of solid manure. In this draft MPP for 2,000 cows, they would produce only 1,500 T of solid manure. Please explain.

Response:
In the previous MMPs, the facility proposed that sand in the manure would settle out of suspension in the settling basin and would then be land applied as manure solids. The draft permit proposes to construct sand lanes to recycle the sand bedding and therefore significantly reduce the amount of manure/sand solids to be land applied.

30. Distribution and utilization
According to the ODA's rules in the Reyskens permit regarding Distribution and Utilization, "If you [Dairy owner] apply distributed manure, you are required to keep the Land Application Records." In a recent lawsuit with the ODA and State Line Agri, Inc. – the court ruled "the distribution and utilization method would not allow for land application by the owner of the facility." Please explain why the Reyskens permit allows the Dairy to apply distributed manure.

Response:
If a facility uses distribution and utilization methods, then the facility shall not control the application. For the draft permit, any manure distributed to and utilized by others would not be applied by the dairy. If the dairy applies the manure, however, then the application would not constitute distribution and utilization under ODA rules or under the draft permit; instead the facility becomes responsible for the land application and must retain all land application records.

31. Center pivots
According to Notes in a 2011 inspection report regarding the Manure Storage Pond, "Ponds 2 and 3 available for planned center pivots". Will the Dairy use center pivots and, if so, where will these center pivots will be located?

Response:
The draft permit does not propose the application of liquid manure via a center pivot irrigation system. However the dairy could choose to add center pivots in the future as an operational change in accordance with OAC 901:10-1-09.

32. Land application fields
According to Notes in a 2011 inspection report, "Pond 1 will be more nutrient dense and will be tanked to fields further away." Are these "further away" fields shown on the MMP Field Location map?

Response:
All of the proposed application fields included in the manure management plan in the draft permit are shown on the exhibit titled "Overall View of Fields for Manure Application". The facility can choose to add or remove land application fields in the future, if done so in accordance with ODA rules.

33. Ownership of fields
There were problems in the past with fields being included in the earlier Reyskens MMPs without the permission of the landowners. Did the ODA verify that the fields included in this draft permit for manure application were valid?

Response:
The Ohio Department of Agriculture does not review or control rental agreements between landowners and their crop farmers as to what type of nutrients (commercial fertilizer, manure, biosolids, or compost) can be applied. ODA's communication with the facility and participating crop farmer indicate that all the land shown in the manure management plan is available to receive nutrients.

34. Emergency response/fire service
The Cygnet Fire Department was listed as the Farm Fire Protection District in this draft permit. This Dairy is not in the Cygnet Fire Department's area of responsibility. Why was this false information included in this permit?

Response:
This comment refers to a part of the draft permit to operate called the Emergency Response Plan, which includes a section where the applicant is encouraged, but not required, to list contact information for the fire protection district in which the facility is located. The applicant incorrectly identified the fire protection district because on one occasion the Cygnet Fire Department responded to a 911 call at the facility.

The draft permit has been revised to remove the reference to the Cygnet Fire Department and to identify the Hoytville Fire Department as the correct farm fire protection district, which was verified by the Wood County Emergency Management Agency.

35. Lagoon pumping service
According to the LAGOON PUMPING SERVICES section of this permit, "Lagoon Pumping Service should be within a reasonable distance from the facility and able to respond to an emergency at the facility." Matt Knelier of Silver Lake, Indiana was listed. According to Mapquest, the distance between this facility and the Reyskens Dairy is 150 miles and would take almost three hours to drive. Does the ODA consider this a "reasonable distance" and does the ODA consider three hours a reasonable time to respond to an emergency?

Response:
This comment refers to a part of the draft permit to operate called the Emergency Response Plan which includes a section where the applicant is encouraged, but not required, to list contact information for lagoon pumping services. The draft permit lists two contacts for lagoon pumping services. Matt Kneller from Silver Lake, IN is identified as the secondary pumping service provider. The primary provider of lagoon pumping services is identified as Dennis Niese from Leipsic, OH. Leipsic is located in Putnam County, OH about 20 miles southwest of Reyskens Dairy.

36. Financial condition
I don't know what provision they would have if they were bankrupt and this was not fully taken care of.

Response:
If the facility owner/operator files for bankruptcy, the facility must still maintain permit compliance while developing its bankruptcy reorganization plan. If the current owner/operator cannot successfully reorganize in bankruptcy and closure has been ordered by the bankruptcy court, a closure plan must be submitted to ODA for review and approval. Usually the immediate need is to make sure the manure levels are lowered to prevent potential discharges; in addition, water and feed must be cleaned up and the site stabilized. If the facility is going to be permanently closed as a result of the bankruptcy, then further measures, such as the removal of all manure from the property and dismantling of some systems, must take place. Depending on the nature of the bankruptcy proceedings and rulings made by the bankruptcy court, either the debtor or a receiver may be in charge of facility operations and/or closure during the bankruptcy period. In cases where a bankruptcy has been filed and there are issues of noncompliance involving the facility that need to be addressed, ODA will file a claim in the bankruptcy proceedings to ensure that compliance is restored. If the owner/operator or receiver of the permitted facility can or will not take necessary actions, then ODA will utilize the Livestock Management Fund to ensure the environment is protected and go to court to recoup the expenses.

Comments That Received No Response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The legislature has not given the Division of Livestock Environmental Permitting unlimited power. The areas that the Division has been given authority over are very limited and are covered under the PTI and PTO. The Division has not been given any statutory authority to regulate many of the areas of concern to communities such as infrastructure, air quality and quality of life. Determining the areas that should be regulated for agriculture is a decision of the legislature and not of the ODA.

The subjects in the following list are either not regulated by the Division of Livestock Environmental Permitting or are not specific to the draft permits:

- General statements of opposition to dairies/livestock farming
- General statements of opposition to nutrient/manure application
- General requests for bans on permit issuance
- General criticism of manure application practices
- Road damage concerns
- Lake Erie conditions
- Questions about the Ohio Administrative Code regulations
- Status of applications submitted to Ohio EPA
- Ohio EPA enforcement actions/enforcement decisions/program areas
- Enforcement authority against discharges (Ohio EPA)
- Fish kill enforcement (ODNR)
- Previous permit approvals/operational change approvals
- The facility's hiring of or experience levels of various engineers
- Reasons facility is choosing to expand
- Numeric nutrient standards

- NPDES delegation application or statements regarding compliance with Clean Water Act
- Immigration/visa requirements
- Previous ODA inspections
- Fields in previous permit
- General statements regarding health concerns related to livestock facilities

Revisions Made to Draft Permits

- Revised local notification letter to the Jackson Township Trustees
- Added soil test report for Field #30
- Anticipated crop acres for each year for each application field
- Revised MMP spreadsheet corresponding to Part 11 of Form LEPP-3900-007, Annual Crop Removal
- Revised MMP spreadsheet corresponding to Part 12 of Form LEPP-3900-007, Predicted Soil Test P
- Revised the facility's fire protection district in Part 5 of Form LEPP-3900-010, Emergency Response Plan,

Ohio | Department of Agriculture
Governor John R. Kasich • Lt. Governor Mary Taylor
Director David T. Daniels

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Responsiveness Summary to public comments on the
Indian Trail Pullets LLC draft Permit to Install and Permit to Operate
March 8, 2013

On January 30, 2013, the Ohio Department of Agriculture issued a public notice of the Indian Trail Pullets LLC draft Permit to Install and draft Permit to Operate. This public notice opened the public comment period on the draft permit and informed the public that persons could submit written comments and/or request a public meeting on the draft permit. The comment period ended at 5:00 p.m. on March 1, 2013. A public comment was submitted on the draft permits but no requests for a public meeting were received.

The Director of Agriculture's final decision on the draft permits must be made in accordance with the laws regulating and facts contained in the permit. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permit. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The Permit to Install and Permit to Operate cover issues pertaining to water pollution control, such as manure management, containment of stormwater runoff, insect and rodent control, mortality and emergency response.

One person submitted written comments regarding the draft permits issued.

Date Received	Name	Organization, if any	City, State
2/6/2013	Theresa Dirksen		New Weston, OH

Comment #1:
"..this proposed site is not located in the Upper Wabash River Watershed. It is located in the Upper Great Miami River Watershed (05080001).

Response #1:
The incorrect watershed name was inadvertently listed in the draft permit. This typographical error is corrected in the final permit.

Comment #2:
This plan shows that all manure will be distributed and utilized. Can you be more specific on where the manure generated at this farm will be utilized? This area is already heavily populated with livestock and manure nutrients from that livestock. I would hope that this manure would be shipped out of the area, preferably out of Mercer County.

Response #2:
Chapters 901:10-2-09 and 901:10-2-11 of the Ohio Administrative Code do not require the permit application to preemptively identify the potential recipients or estimate where the manure will eventually be applied. Once the facility is operational, it will be required to maintain an operating record that will identify the manure recipients, the amount of manure received by each recipient, and the date of receipt. The facility operating record will be reviewed by ODA during regular inspections. Any manure generated by the proposed facility that might be land applied in Mercer County by a Certified Livestock Manager (CLM) would be subject to ODA regulations. Any manure generated by the proposed facility that might be land applied in Mercer County by someone *other than* a CLM would be subject to oversight by the Mercer County Soil and Water Conservation District (SWCD).

Comment 3:
Also, because of the livestock population in the area, wouldn't there be a more suitable location for this proposed operation?"

Response:
The proposed facility meets the siting criteria listed in Ohio Administrative Code Chapter 901:10-2-02.

Revisions Made to Draft Permits

- Revised watershed name to identify the Upper Great Miami River (05080001).

Governor John R. Kasich
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Responsiveness Summary to public comments on the Hillandale Farms Ohio, LLC draft Permit to Install and draft Permit to Operate May 10, 2013

On April 9, 2013 the Ohio Department of Agriculture issued a public notice of Hillandale Farms Ohio, LLC draft Permit to Install and draft Permit to Operate. This public notice opened the public comment period on the draft permits and informed the public that any person may submit written comments and/or request a public meeting on the draft permits. The comment period ended at 5:00 p.m. on May 9, 2013. Two individuals submitted comments. No requests for a public meeting were received.

The Director's final decision on the draft permits must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permits and the way in which the draft permits comply with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Two individuals submitted comments and questions to DLEP regarding the draft permit issued to Hillandale Farms Ohio, LLC: Kay Byroads, whose address is 8066 Road 8, Montpelier, OH 43543 and Vickie Askins, whose address is 6335 Solether Road, Cygnet, OH 43413.

Similar comments are grouped and summarized.

Comments and Questions submitted by Vickie Askins

Comment Subject matter: 4 Rs of Nutrient Stewardship and Distribution & Utilization

1. Please explain how the Distribution & Utilization method of manure management conforms to the 4 Rs of Nutrient Management.

2. Please explain how this owner/operator could know the crop requirements of the fields receiving manure since the Manure Management Plan (MMP) does not contain soil testing data for all the fields that will receive this manure.

3. Please explain how this owner/operator could know when the crop demand would be high if there is no cropping schedule in this MMP for all the fields receiving this manure.

4. Please explain how this owner/operator could know the right place to put all these nutrients if he has no idea where the "crop farmers" will apply this manure.

5. Please explain why there is **no** field-specific assessment that addresses the form, source, location, amount, timing, and method of application of nutrients on each field, as required by the Clean Water Act.

Response:

The liquid manure will be under the control of Hillandale Farms and detailed information about the application and nutrient budget of this liquid manure is included in the Manure Management Plan (MMP). However, all solid manure will be distributed to others and not under the control of Hillandale Farms. Hillandale is required to provide a copy of the manure analysis, the land application requirements and have the recipient sign an acknowledgement of receipt, as well as record the name, dates of manure removal and quantity of manure distributed. The recipient acquiring the solid manure from a MCAFF or CAFF is responsible for obtaining soil tests for the land on which the manure will be applied and for knowing what nutrients are needed on each field. There is no requirement for field specific information in the Federal Clean Water Act or ODA rules for manure that is utilized by crop farmers under distribution and utilization.

All manure is to be applied either in accordance to the requirements set forth for Certified Livestock Managers under DLEP's authority or those requirements set forth in the Pollution Abatement law administered by the Ohio Department of Natural Resources, Division of Soil and Water Resources (ODNR-DSWR), whichever regulation would be applicable to the recipient. Best Management Practices that consider the 4R's are provided in each set of these regulations.

Comment Subject matter: Use of Certified Livestock Manager(s)

6. Since this MCAFF is applying for ODA permits, please explain why this owner is NOT required to use ODA-trained Certified Livestock Managers or ODA-trained manure brokers to apply the massive amounts of manure generated annually?

9. Please explain the ODA's oversight authority over the "crop farmers" who will apply the 63,300 tons of solid manure generated annually by this MCAFF.

Response:

Distribution and Utilization does not require that a facility use only a Certified Livestock Manager. Livestock Manager certification is required if an individual purchases, sells, or land applies more than 25 million gallon of liquid manure or 4,500 ton of dry manure annually. Certification is not required for individuals who do not meet these requirements. ODA-DLEP oversees applications performed by a CLM. In addition, ODA inspects CLM's similar~~ly~~ to ~~the~~ inspections of ~~the~~ permitted livestock facilities.

Comment Subject Matter: Regulating Authority

7. Please explain what oversight the ODA would have over this MCAFF and the massive amount of manure it generates if/when the Director approves this permit.

8. The D&U method of manure management has been dubbed the "manure loophole" because it allows CAFO owners to dispose of manure with little sunshine on what happens after the hand off. Please explain how the ODA would monitor the manure disposal by this MCAFF.

13. Please explain which agency(ies) would have oversight over this MCAFF and what enforcement authority this agency(ies) would have under Ohio's laws.

14. Since the ODA has stated in the past it has no oversight over D&U - but the local SWCD has no enforcement authority over MCAFFs, please explain how local residents can report violations and/or discharges in order to make sure this owner does not provide additional manure to a "crop farmer" who violates Best Management Practices.

Response:

ODA-DLEP has regulatory authority for any manure as long as it is under the control of the permitted facility or a Certified Livestock Manager, whether in storage or being land applied. All manure that is land applied in Ohio has to comply with state law, but it depends on who is responsible for the manure when it is land applied (see response to Comment 6. and 7. above) to determine which laws apply to its application. ODA has regulatory authority over the MCAFF and requirements would fall under ORC 903 and OAC 901. Once manure is distributed by the MCAFF, either ODA or ODNR/DSWR has regulatory authority, depending on whether control of the manure falls under a CLM.

Comment Subject Matter: Miscellaneous

12. Do these "crop farmers" have to incorporate this manure? If so, does this have to be done within 24 hours?

Response: No.

17. Since this MCAFF has elected to use the Distribution & Utilization method of manure management, please explain if this operator or any employee can spread or have any control over the solid manure after it leaves the property.

Response: If the facility operator or an employee of the facility applies manure as part of the facility's operation, then the facility must include that land in the land application plans and keep the same records that they will be doing with the liquid egg washing wastewaters.

Comments and Questions submitted by Kay Byroads

"For example, what is going to be done as far as disposal of the thousands of carcasses".

Response: The facility will be utilizing rendering for all mortality

"I know the high content of acid/ammonia in chicken manure, so how is this going to be disposed of as far as spreading on adjacent fields".

Response: Please see response to questions 1 through 5 above.

Comments That Received No Response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The legislature has not given the Director of Agriculture unlimited power. The areas that the ODA has been given authority over are very limited and are covered under the PTI and PTO. ODA has not been given any statutory authority to regulate many of the areas of concern to communities such as infrastructure, air quality and quality of life but that does not mean the ODA does not recognize that these and many other areas are concerns to communities. Determining the areas that should be regulated for agriculture is a decision of the legislature and not of the ODA.

The inquiries that follow are either not regulated by the Ohio Department of Agriculture or are not specific to the draft permits:

10. Please explain how these "crop farmers" would be trained to handle the massive amounts of chicken litter manure generated each year.

11. Please explain how the ODA will monitor whether these "crop farmers" also apply commercial fertilizers to these manure fields.

15. Please explain why the ODA would give this MCAFF owner a free pass for the land application of the massive amounts of waste it generates while, at the same time, the State of Ohio is threatening row crop farmers with mandatory restrictions on commercial fertilizer application.

16. This MCAFF is proposed to be located in the Upper Maumee River watershed. Please explain why the ODA would allow another industrial animal facility to be located in an area that already has other confinement facilities - in light of the extremely serious issues with nutrient loadings in the Maumee River and Lake Erie.

Revision from Draft Permit to Final Permit

Governor John R. Kasich
Lieutenant Governor Mary Taylor
Director David T. Daniels

Division of Livestock Environmental Permitting
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Responsiveness Summary to public comments on the Fenstermaker Farms, Inc. draft Permit to Operate
April 17, 2014

On March 12, 2014, the Ohio Department of Agriculture issued a public notice of Fenstermaker Farms, Inc. draft Permit to Operate. This public notice opened the public comment period on the draft permit and informed the public that any person may submit written comments and/or request a public meeting on the draft permits. The comment period ended at 5:00 p.m. on April 11, 2014. Public comments were submitted on the draft permit but no requests for a public meeting were received.

The Director's final decision on the draft permits must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permits and the way in which the draft permits comply with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Oral and written comments are taken word for word with no editing (other than some corrected spelling and grammar). Similar comments are grouped and summarized.

No.	Date Received	Name	Organization, if any	City, State
1	March 10, 2014	Kevin Otte	Menke Consulting	Greenville, Ohio

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Category **Page**

1. **Manure Management Plan..... 2-3**

1. **Manure Management Plan**
   a. *Page 1 of 3 of the Manure Management Tool outlines all the farms in the plan, the acres for each farm, starting soil test levels and predicted soil test P levels at the end of the plan. Although all the farms listed match the soil test results provided, the soil test P values identified are merely averages of the whole farm. It appears that the farms were grid sampled and thus, is each grid intended to be managed separately as one would expect if sampling in this manner. Therefore, wouldn't it be necessary to list all grid point results on this page. There are some grid results (> 100 ppm) that would require different P application rates, but they are averaged among the entire field.*

Response: The facility does grid soil sampling but does not have variable rate manure application equipment and it is therefore not required for them to list as separate entrees on this page. As with any plan, if a practical management zone can be managed in a sensible way to provide the most efficient use of nutrients, then that would be expected and verified during routine inspections. With this plan, the phosphorus generated at the facility is less than that utilized by the crops, so there is a deficit of phosphorus. In addition, multi-year applications of phosphate are not intended with this plan because manure is to be evenly distributed (at crop removal of phosphate, or less) across all acres. If multi-year application of phosphorus does occur, it should be documented in the operating record and reviewed during routine inspections to ensure compliance with ODA rules. The 58 acres that had soil test P greater than 150 ppm were removed from the spreadable acres, which reduced the total available for manure application to 2,146 acres, still more than enough to balance P_2O_5 on the entire facility.

   b. *I did not see the actual manure analysis results used for the MMP.*

Response: Actual manure analyses were used for the Manure Management Plan, which was actually a 4-year historical average. The nutrient analysis for June 2012 was part of the permit and the manure records to support other three years of the 4 year average were available in the facilities operating records.

c. *The Lagoon Operation & Maintenance Plan seems a little outdated (1995 it appears)*

Response: The O&M Plan is not necessary for the permit and has been removed.

d. *Some of the soil test results will be getting to be three years old in mid April.*

Response: At the time of the application, the soil test results supplied met the rule requirements of 3 years old or less. Yearly inspections assure that these soil tests are updated to comply with the rules.

e. *I did not see any supporting data on how the manure storage volumes and days of storage were calculated for each storage structure; and a compost structure was not identified.*

Response: The manure storage volumes and manure production values did not significantly change from the previous permit, therefore not requiring supporting calculations. The compost structure was added to the permit.

Governor John R. Kasich
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Responsiveness Summary to public comments on the Bowersock Pork draft Permit to Install and draft Permit to Operate
June 5, 2014

On April 18 2014, the Ohio Department of Agriculture issued a public notice of Bowersock Pork draft Permit to Operate. This public notice opened the public comment period on the draft permits and informed the public that an open house and public meeting would be held on May 20, 2014 at the Salem Township Building, located at 21219 State Route 197, Spencerville, OH 45887.The open house began at 6:30 pm with the public meeting to record public comments beginning at 7:00 pm to accept comments. The comment period ended at 5:00 p.m. on May 28, 2014.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code (OAC), persons, including applicants, who believe any condition of a draft permit
is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Public Comments Submitted by:

No.	Date Received	Name	Organization, if Any	City, State
1	5/28/2014	Bruce Stoner		St. Marys, OH
2	5/28/2014	Doug Zimmerman	Neighbor	Spencerville, OH
3	5/28/2014	Phyllis Fell		Spencerville, OH
4	5/26/2014	Richard Seibert		Spencerville, OH
5	5/28/2014	Todd Spicer	Local Resident	St. Marys, OH
6	5/20/2014	Gary Truesdale		
7	5/20/2014	Hue Seibert		Spencerville, OH

All similar comments are summarized and grouped.

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1A. Permit to Install - Ground water quality and potential contamination:

One of these concerns involves the quality of our ground water living so close to the hog operations.

As a neighbor directly to the east of the aforementioned property, we have serious concerns over the quality of our ground water if Mr. Bowersock is allowed to proceed with his expansion.

Water quality is a large concern within our area as well. The aquifer sits under this barn and supplies several houses within the vicinity is shallow.

We had problems with our water when ODOT worked on the bridge and they got into the

shallow aquifer where homeowners originally drilled their wells. It got into the underground river and affected our water then. We don't want that to happen again.

If and when this water leaches into our well water who will take and be responsible to the people with these wells?

If there is damage to our wells, who will pay for it?

Response:
The proposed fabricated manure storage structure (concrete deep pit) was designed in accordance with ODA rules and the American Concrete Institute standards. ODA Rules require that a licensed professional engineer (P.E.) develop the design in accordance to these rules and standards. In addition, the PTI requires a geological exploration and an accompanying report to demonstrate the proposed site for the manure storage structures meets ODA rules intended to protect groundwater quality (found in OAC 901:10-2-02). The geological exploration report was also developed by a P.E. and is included in the PTI. It concludes that all borings drilled encountered a very low permeable clay layer located directly below the planned bottom of both pits. Further information on the geology at the site is included in the PTI.

ODA rules require that an annual ground water sample will be tested from a well at the facility that is properly installed, located, protected and operated. Bowersock Pork will be required to perform an annual groundwater quality test for nitrates and total coliform bacteria as part of their Permit to Operate. For concerns associated with ground water, the best place to sample is at the farm itself. The production well used at the site would likely pull more water from the aquifer than the surrounding individual homes, and any potential pollution from the facility would therefore show up in the production well first due to the localized water drawdown from the production well, called the "cone of depression."

If wells would become contaminated around the facility after it becomes operational, then the source of the contamination would be researched. Once the source of contamination is confirmed, appropriate remedial actions will be implemented. Liability for any contamination would be determined once the cause and source of contamination was defined.

As a general rule, no matter where in Ohio a private well system is located, annual water sampling is recommended by the Ohio Department of Health, the National Groundwater Association, the Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency. The regularly recommended sampling of private wells in Ohio is solely the owner's responsibility.

It is also important to note that ODA began requiring these annual on-site well sampling at permitted facilities when it began issuing PTIs, PTOs and Review Compliance Certificates to Ohio EPA permitted facilities in 2002. Many of these facilities had been permitted for 20 years or more and many had livestock for over 100 years. The well test results that we have inspected have not shown violations of drinking water standards required by the Health Departments.

1B. Permit to Install - Ground water quantity and usage

Without knowing what animals are being fed and treated with (antibiotics) how do we even

know what is going into the soil that could affect our water supply? What about phosphorus, who is monitoring and sampling for that?

Also with this expansion is the increase in ground water usage from ~1 million gallons of water a year to ~2 million gallons of water a year.

We have concerns about... excessive well water usage and consumption.

Depleting our water supply is also a concern with the addition of this production facility. With finishing pigs consuming an average of 3-5 gallons of water per day and the proposed facility housing over 4,000 hogs, this will create a large draw on our existing water supply.

Response:
Bowersock Pork projects an average water usage of 7,760 gallons per day, which would be equivalent to 5.4 gallons per minute. The Ohio Department of Natural Resources (ODNR) Division of Soil and Water Resources has prepared a Ground Water Resources Map for Auglaize County, which indicates the limestone aquifer supplying Bowersock Pork and the surrounding area is capable of delivering more than 100 gallons per minute at depths of more than 100 feet. Shallow wells in the area (less than 100 feet deep) can reliably deliver up to 30 gallons per minute. Based on the rating of the supplying aquifer, there should be no adverse effects to the neighboring wells due to the projected water usage by the swine facility.

ODA has no regulatory authority over groundwater withdrawal. If a facility has the capacity to use greater than 100,000 gallons of water per day, it is required to register with the ODNR Division of Soil and Water Resources, as required by Ohio Revised Code Section 1521.16. Bowersock Pork estimates a daily withdrawal rate of approximately 7,760 gallons per day and therefore is not required to register with ODNR Division of Soil and Water Resources. If there are additional concerns, local government officials, in cooperation with area residents, can request ODNR's Division of Soil and Water Resources to assist in conducting detailed studies. ODA does not, nor does any state agency, have the authority to allocate quantities of ground water among all actual or potential users. Cline v. American Aggregates, 1984 Ohio LEXIS 1308, allows for the reasonable use of ground water for beneficial purposes.

2A. Permit to Operate – Manure management and water quality:

Another real problem with new barn is that it adds to the number of animals being raised on just 40 acres with the Bowersocks owning no adjoining acreage.

The soils (Millgrove Clay Loams and others) in the flood plain has a lot of gravel in it enabling the over application of manure nutrients to leach quickly into the tiles going to the river to Ft. Wayne or Lake Eric. And to the water table. Mercer County already has this problem going into the Grand Lake.

The immediate farmers don't seem too pleased with the additional barn so where will all the manure go? Is this a good manure plan?

The amount of manure that Darrell Bowersock is applying to the ground is too much for the acreage of land that is available.

We have concerns about...close proximity of the actual facility and manure distribution in relation to the St. Marys River.

We have concerns about...further phosphorous contamination of Lake Erie.

Also a concern is the proximity of Bowersock Pork to the St. Marys River and the probability of run off from the waste.

In dry weather, with rain, it could move hog manure into the sand. In flood conditions it could raise the manure up and wash out.

If this is not regulated any better than the septic systems I am really concerned if this will have better regulations enforced. Half of the houses along 197 do not have a leach field or a sand filter. This sewer water goes directly to the river. I need to be assured that the water would not leave the farms.

With the close proximity to the St. Marys River, it is a grave concern as to the run off of waste from the farm to the river.

Remember that member folks downstream use their water source from the St. Mary's River and it eventually joins the St. Joe and Maumee. How is this being a good neighbor when the water source that supplies these folks could make them sick?

Closer home, I am concerned about the surrounding wells from which all receive our drinking water. Has there been a percolation test done to know how this ground will handle it?

Response:

The Manure Management Plan (MMP) for the draft permit does not allow over-application of nutrients or discharges that would lead to impairment of surface water quality. ODA rules governing land application of manure nutrients are equally protective of all rivers, streams and watersheds.

Manure is to be applied using best management practices (BMPs) and in accordance with department rules, with the intent to replace more soluble commercial chemical fertilizers that would otherwise be used to provide the same nutrients on the same cropland. ODA Rules in OAC 901:10-2-13 require that soil samples be taken at least every three years for every 25 acres or less of the planned land application area. The most recent results of these samples are provided in the permit in the MMP. The land application of manure under the control of a concentrated animal feeding facility (CAFF) must also follow setbacks to protect waters of the state. For instance, a setback of 35 feet of vegetative buffer, or 100 feet if not vegetated, is required for all surface manure application in Appendix A, Table 2 of OAC 901:10-2-14 to help protect waters of the state.

ODA also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. Twice each year, a department inspector conducts a full inspection and correlates the MMP with the data recorded in the Operating Record, such as the crop yields, annual manure analysis, and new soil samples collected. See OAC 901:10-2-10 for manure and OAC 901:10-2-13 for soils and testing frequency.

Application rate criteria are set forth in ODA's rules, and all of these criteria are evaluated to determine what the most limiting factor for the field is at the time of application. The application rate criteria include - but are not limited to - the nitrogen needs of the crop being grown, phosphorus based on soil tests, and the availability water capacity of the soil at the time of application. See OAC 901:10-2-14. Based on this evaluation, the permitted application rate is determined and that application rate is used for that period of application. Generally, the most limiting factors are the nutrients evaluated and, for liquid manure, the available water capacity (AWC) of the soils in the field. The AWC is often the most limiting factor for a single time liquid manure application because the water holding capacity of the soil may be achieved in a single application before the allowable nutrients are applied. Limiting liquid applications to the AWC ensures that soils are not over-saturated and limits the downward movement of nutrients through the soil profile. This serves as a means to prevent groundwater contamination from manure application events. For further analysis of the available water capacity chart, refer to Appendix B of rule 901:10-2-14. In addition, depending on the time of year, additional nitrogen limitations are evaluated, as provided in OAC 901:10-2-14(D). Additional criteria also heavily restrict application on frozen or snow-covered ground, as provided in OAC 901:10-2-14(G).

As described in OAC 901:10-2-14(E), the application rate for phosphorus is determined using soil test data, the phosphate requirements for the planned crops or crop rotations, and either the phosphorus index risk assessment procedure in Appendix E, Table 1 or the phosphorus soil test risk assessment procedure in Appendix E, Table 2 of the rule.

Weather must be recorded for a period 24 hours before, during and 24 hours after manure applications to ensure that rainfall will not cause manure to leave the application site. As noted in OAC 901:10-2-14(C)(6), land application of manure shall not occur if the forecast contains a greater than 50% chance of precipitation of an amount of one half inch or more for the period of 24 hours after the start of land application. Though weather forecasting is not an exact science, limiting liquid manure applications ahead of anticipated precipitation events provides some measure of protection against the potential downward movement of manure nutrients through the soil profile, and serves as a means to prevent groundwater contamination from manure application events.

Following these BMPs and department rules will minimize any potential impact to the watersheds where the manure will be utilized. However, in the event of a discharge, the farm is required to immediately notify ODA of any discharge, begin immediate remediation and corrective measures to stop further discharges, collect samples of discharges and allow the department to inspect and test. Enforcement measures, including fines and penalties, are provided in rules and statute to address violations.

2B. Permit to Operate - Manure application on fields with soils prone to flooding

I am concerned about...the spreading of hog manure on the flood plain of the St. Marys River,

There is a hog setup south of the river on Barber Werner Road, and manure is being applied to flood plain already. Even the land directly west of the Bowersock farm facility is a flood plain. There was a gravelpit built nearby that was built on the Bowersock farm for sand and gravel for building of the Baker Wright Road many years ago.

Two miles from 66 to along 197 is a Flood plain in which Bowersock's have already applied hog manure. This area is under lauded with sand and gravel. This could affect the shallow wells of Kossuth and the surrounding area.

This area is also an annual flood plain. While it is known for having nutrient rich soils, it consistently floods several times a year, covering crop farmed areas. As waters retract and they fall to the St. Mary's River watershed which long term feeds Lake Erie, which is currently under State and Federal scrutiny for water quality, most of which is being pointed towards agricultural production. Increased nitrogen producing sources will increase run-off/ leaching sources and continue to feed these problems.

Most of the entire areas is what quite often floods to nearly the doorsteps of at least 14 houses or more within a mile of the barns.

Is applying liquid manure on top of this type of soil good practice?

He is not knifing the manure into the soil now and will not in the future. He is spreading it on top right next to the river which floods often.

Response:
ODA rules limiting manure applications to soils that are classified as being prone to flooding, based on the soil type and through reference to the current United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Web Soil Survey for the county. Manure applications are allowed on soils that are prone to flooding, but only during those months outside the predicted flooding season. Manure applications on flood prone soils must be incorporated within 24 hour and documented in the facility's operating record, which will be regularly inspected by ODA.

By comparison, there are currently are no rules or regulations concerning the application of synthetic chemical fertilizers on soils that are prone to flooding, even though fertilizers are manufactured to be highly water soluble.

2C. Permit to Operate - Distribution and utilization of manure nutrients

We have concerns about...manure distribution monitoring and enforcement.

Response:
Records on manure distribution must be kept in accordance with ODA rules found in OAC 901:10-2-11, 901:10-2-09, and 901:10-2-16 of the OAC. These records are required to be maintained at the facility for review by the ODA inspector during the twice-per-year inspections or at any other such time that ODA conducts an inspection or complaint investigation at the facility.

2D. Permit to Operate - Manure characterization

We have concerns about...manure characterization monitoring and enforcement.

Also the water that is being put in these pigs, how does it change the nutrients levels of the manure because it sure has a different odor? Would that change the manure plan?

Response:
ODA rules require that each manure application will be based on a laboratory analysis of a recent representative manure sample. ODA also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. The operating record will be regularly inspected by ODA.

2E. Odor concerns

The neighbor built his hog barn in 2005. Day two that the barn was filled was a hot humid day, life at the Stoner farm was changed by the hog manure and strong urine (being polite) smell. We built our house so we could entertain as well as raise our family and the entertaining part of the plan was changed from that time on. Not every day is bad as that you know because the wind doesn't always come from the west but the predictability of the smell is the risk. We have changed locations for family outings at the last minute.

We have concerns about...Lack of efforts by any Ohio agency to minimize and monitor manure odors.

The day they were spraying manure it smelled so bad east of Kossuth it burned your breath and I turned south at the Tile Mill.

We live with the smell quite often keeping our hose shut up not able to open the windows. Even when there is no wind the air is heavy the smell pools. Then it comes to the time when the manure is spread, the first week is horrendous the second and third week depends on what direction the wind is and how hot it is, and the first couple rains we get more smell. And they pump the pits 2 times maybe 3 times if you're real lucky.

Response:
Odor minimization is required by ODA rules and the conditions of the PTI and PTO. In the Manure Management Plan of the draft PTO, Bowersock Pork has identified specific Best

Management Practices listed in OAC Rule 901:10-2-12 to minimize odor. These include removal and land application of manure when wind direction is less likely to affect neighboring residences and injection or incorporation of manure when at all possible.

Odor is something that will be evaluated during routine ODA inspections and complaint investigations. Inspectors would determine if the permit was being followed and if the odor was occurring as a result of the producer not following Best Management Practices. If the permits are not followed, the farm could be subject to an ODA enforcement action.

3. Regulatory oversight by Ohio EPA

Has this been approved by the EPA? and will this be under their control or who will it be?

Response:
The Ohio EPA no longer has regulatory approval authority on livestock farms. In 2002 the Ohio Legislature granted this authority to ODA for both Permits to Install and Permits to Operate as well as regular and complaint inspections. Prior to expanding this authority at ODA, the only permit required was a PTI with no regular inspections.

4. Comments receiving no response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The areas over which ODA has been granted authority are very limited and are covered under the Permit to Install and Permit to Operate. ODA has not been given any statutory authority to regulate the following subject areas:

- Property values
- Odors
- Air emissions
- Antibiotic use
- Feed additives

Governor John R. Kasich
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Responsiveness Summary to public comments on the Napoleon Dairy draft Permit to Operate June 13, 2014

On May 14, 2014, the Ohio Department of Agriculture issued a public notice of Napoleon Dairy draft Permit to Operate. This public notice opened the public comment period on the draft permit and informed the public that the Ohio Department of Agriculture (ODA) was accepting public comments on a draft Permit to Operate (PTO) renewal for the facility called "Napoleon Dairy, LLC" located at V 624 County Road 16, Napoleon, OH 43545 in Henry County. Comment period ended at 5:00 p.m. on June 13, 2014.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Written public comments submitted:

No.	Date Received	Name	Organization, if Any	City, State
1	6/13/2014	Sandy Bihn	Lake Erie Waterkeeper, Inc.	Toledo, Ohio 43611

Comment 1.A: This permit alleges it is a renewal, but more factually it is an expired permit that was never executed and therefore, this permit should 'start over' with a permit application.

Response:

This facility has been in existence for many years as a medium facility that did not require a permit to operate. It has had a Permit to Operate (PTO) and a Permit to Install (PTI) since 2008 for up to 1,900 cows. As a currently permitted facility, it has had up to 874 cows during inspections. A PTO renewal is required to be received 180 days prior to expiration. If the renewal application is received on time, the facility operates under the previously issued PTO until the PTO renewal application is finalized. The PTO renewal application for Napoleon Dairy was received 6 months prior to the expiration date and therefore the facility still maintained coverage under the previously issued PTO.

Comment 1.B: There was no construction and no animals are using the permitted facility.

Response:
While there has been no major construction performed regarding the Permit to Install (PTI) expansion issued for this facility, there have been improvements made in regards to the collection of the silage leachate. Also, the existing barns are currently configured for a design capacity for over 700 dairy cows, which requires a permit. All rules associated with permitted facilities must be followed. The PTI is not part of the public review process and the Director has discretion to extend any PTI at the request of the owner.

Comment 1.C: Technology changes and permit conditions change in five years. Permits should have to be executed – or begin construction in an 18 month period. Five years is way too long.

Response:
The ODA has not made any changes that would affect the design criteria of the original PTI, therefore re-application would not be justified. Rule 901:10-1-02(C) of the Ohio Administrative code regulates the duration of the permit to install at 24 months and allows for renewal of the permit to install at the discretion of the director.

Comment 2: As the Department of Agriculture is aware and is participating in efforts to reduce nutrient runoff to help the economically distressed Lake Erie watershed, adding 900 cows from the original permit and 1000 more for this permit will add 11.6 million gallons of manure from the five year old permit not executed and 15.8 million more gallons from the new permit which adds large volumes of nutrients to an already stressed Lake Erie watershed.

Response:
The original PTI/PTO was issued for an expansion from 690 cows to 1,900 cows. Since the original permit was issued, the facility has housed up to 874 cows in the existing freestall barns and has not constructed the additional freestalls for the expansion to 1,900 cows.

The ODA requires a manure management plan in the permit to operate to assure sufficient land is available and that proper application rates are used to protect the waters of the state for the maximum permitted design capacity, which in this case is 1,900 head.

Comment 3: The Ohio Department of Agriculture needs to do a mass balance of each subwatershed to determine the capacity of the land in the subwatershed to apply manure in the number of months that the manure can be incorporated in the ground at agronomic levels that have been proven acceptable for phosphorus and nitrogen for the Lake Erie watershed.

Response:
ODA does not have the statutory authority to deny a permit based on nutrient mass balances for watersheds that include land that is not under control of the dairy. ODA has to examine each nutrient management plan and determine the crops, yields, soil tests, nutrient needs and manure nutrient availability and application rates for each farm to determine if the nutrient management plan meets the crop requirements, reducing commercial fertilizer purchases, minimizing nutrient movement offsite and can be approved.

Comment 4: Until a mass balance by subwatershed for manure is completed, additional animals/manure should be delayed.

Response:
The ODA does not have the authority to deny a permit based on the stated issue. See response to comment #2 & 3 above.

Governor John R. Kasich
Lieutenant Governor Mary Taylor
Director David T. Daniels

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Responsiveness Summary to public comments on the De Vries Dairy LLC draft Permit to Install and draft Permit to Operate

October 7, 2014

On September 5, 2014, the Ohio Department of Agriculture issued a public notice of the De Vries Dairy LLC draft Permit to Install (PTI) and a draft Permit to Operate (PTO). This public notice opened the public comment period on the draft permits and informed the public that the Ohio Department of Agriculture (ODA) was accepting public comments on a draft Permit to Install (PTI) and draft Permit to Operate (PTO) for the facility called "De Vries Dairy LLC" which is located at 7188 Sager Road, LaRue, Ohio 43332 in Marion County. The public comment period ended at 5:00 p.m. on October 6, 2014.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Written Public Comments Submitted by

No.	Date Received	Name	Organization, if Any	City, State
1	10/06/2014	Dominic Hanket	City of Columbus	Columbus, OH 43215

Comment 1. General concern about water quality in Scioto River downstream of De Vries Dairy.

Response:
The draft permit does not allow over-application of nutrients or manure spills that would lead to impairment of surface water quality. ODA rules governing land application of manure nutrients are equally protective of all rivers and streams, regardless of watershed.

Manure would be applied using best management practices (BMPs) and in accordance with ODA rules, with the intent to replace more soluble commercial chemical fertilizers that would otherwise be used to provide nutrients on the same cropland. Ohio Administrative Code rule 901:10-2-13 requires that soil samples be taken at least every three years for every 25 acres or less of the planned land application area. The most recent results of these samples are provided in the final permit in the Manure Management Plan (MMP). The land application of manure under the control of a CAFF must also follow setbacks to protect waters of the State. For instance, a setback of 35' of vegetative buffer or 100' if not vegetated is required for all surface manure application in Appendix A, Table 2 of rule 901:10-2-14 to help protect waters of the State.

ODA also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. Twice each year, an ODA inspector conducts a full inspection and correlates the MMP with the data recorded in the Operating Record, such as the crop yields, annual manure analysis, and new soil samples collected. See OAC 901:10-2-10 for manure and OAC 901:10-2-13 for soils and testing frequency.

Application rate criteria are set forth in ODA's rules, and all of these criteria are evaluated to determine what the most limiting factor for the field is at the time of application. The application rate criteria include but are not limited to the nitrogen needs of the crop being grown, phosphorus, and the availability water capacity of the soil. See OAC 901:10-2-14. Based on this evaluation, the permitted application rate is determined, and that application rate is used for that period of application. Generally, the most limiting factors are the nutrients evaluated and, for liquid manure, the Available Water Capacity (AWC) of the soils in the field. The AWC is often the most limiting factor for a single time liquid manure application because the water holding capacity of the soil may be achieved in a single application before the allowable nutrients are applied. For further analysis of the Available Water Capacity chart, refer to Appendix B of rule 901:10-2-14. In addition, depending on the time of year, additional nitrogen limitations are evaluated, as provided in ODA rule 901:10-2-14(D). Additional criteria also heavily restrict application on frozen or snow-covered ground, as provided in ODA rule 901:10-2-14(G).

As described in rule 901:10-2-14(E), either the agronomic rate (based on crop needs) for phosphorus application shall be used or an environmentally protective rate of phosphorus application shall be used, which includes the phosphorus risk assessment procedures listed in the

appendices to rule 901:10-2-14. The two phosphorus risk assessment procedures are the Phosphorus Index (P-Index) Risk Assessment Procedure (described in Appendix E, table 1) or the Phosphorus (P) Soil Test Risk Assessment Procedure (described in Appendix E, table 2).

Weather must be recorded for a period 24 hours before, during and 24 hours after manure applications to ensure that rainfall will not cause manure to leave the application site. See OAC 901:10-2-14(C)(6). Land application of manure shall not occur if the forecast contains a greater than 50% chance of precipitation of an amount of one half inch or more for the period of twenty four hours after the start of land application.

Following these BMPs and ODA rules will minimize any potential impact to the watersheds where the manure will be utilized. However, in the event of a discharge, the Dairy is required to immediately notify ODA of any discharge, begin immediate remediation and corrective measures to stop further discharges, collect samples of discharges and allow ODA to inspect and test. Enforcement measures, including fines and penalties, are provided in rules and statute to address violations.

Comment 2. Request to have the dairy's Emergency Response Plan include contacting the Columbus Division of Water's Control Center phone number in the event of a manure spill or discharge.

Response:
The final permit will include contacting the City of Columbus Division of Water's Control Center phone number (614-645-7788) in the Emergency Response Plan, Part 2 "Discharge or Spill Emergency Response Plan".

Revisions from Draft Permit to Final Permit

- Add contacting the Aqua Ohio Marion, Water Plant Operator's phone number (740-382-1231) to the Emergency Response Plan, Part 2 "Discharge or Spill Emergency Response Plan".
- Add contacting the City of Columbus Division of Water's Control Center phone number (614-645-7788) to the Emergency Response Plan, Part 2 "Discharge or Spill Emergency Response Plan".

Governor John R. Kasich
Lieutenant Governor Mary Taylor
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Responsiveness Summary to public comments on the YNOT Farms LLC draft Permit to Operate (renewal)

January 21, 2015

On December 19, 2014, the Ohio Department of Agriculture issued a public notice of YNOT Farms LLC draft Permit to Operate (PTO) renewal. This public notice opened the public comment period on the draft permit and informed the public that the Ohio Department of Agriculture (ODA) was accepting public comments on the draft Permit to Operate (PTO) renewal for the facility called "YNOT Farms LLC" which is located at 750 Counts Road, South Solon, Ohio 43153 in Madison County. Comment period ended at 5:00 p.m. on January 19, 2015.

At the close of the public comment period, only one comment was received. This Responsiveness Summary will serve as ODA's formal response to the written comments received.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Written public comments submitted by:

No.	Date Received	Name	Organization, if Any	City, State
1	12/26/2015	James M. Tope	TOPE FARM	Mt. Sterling, OH

Comment 1. *YNOT Farms is spreading manure on the fields between Range and Midway, which drain into North Fork Paint Creek. We are very concerned that this could adversely affect the water quality in this stream*

Response:

YNOT Farms LLC has an extensive Manure Management Plan which includes soil and manure testing. They are applying manure according to Ohio Administrative Code 901:10-2-14. Their method of application is utilizing center pivots and drag line applicators that provide nutrients to the crops.

Comments receiving no response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The areas over which ODA has been granted authority are very limited and are covered under the Permit to Operate. ODA has not been given any statutory authority to regulate the following subject areas:

- Flooding of creek
- YNOT's tiles
- Erosion

Ohio | Department of Agriculture

RESPONSIVENESS SUMMARY

Governor John R. Kasich
Lieutenant Governor Mary Taylor
Director David T. Daniels

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Responsiveness Summary to public comments on the Wilker Eggs and Grain Farm, LLC Draft Permit to Install and Draft Permit to Operate January 30, 2015

On December 4, 2014, the Ohio Department of Agriculture (ODA) issued a public notice of Wilker Eggs and Grain Farm, LLC a draft Permit to Install (PTI) and a draft Permit to Operate (PTO). This public notice opened the public comment period on the draft permits and informed the public that an open house and public meeting would be held on January 6, 2015 at the Saint Marys Township Building, located at 10572 State Route 364, Saint Marys, Ohio 45885.The open house began at 6:30 pm, with the public meeting to accept public comments beginning at 7:00 pm. The comment period ended at 5:00 p.m. on January 13, 2015.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to Section 901:10-6-04 of the Ohio Administrative Code (OAC), persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code (ORC) Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Public Comments Submitted by:

No.	Date Received	Name	Organization, if Any	City, State
1	1/6/2015	Kate Anderson	Guardians for the Grand Lake St. Marys	St. Marys, OH
2	1/6/2015 & 1/13/2015	Peggy Sheaks		St. Marys, OH
3	11/28/2014 &1/6/2015	Gary Kersten		St. Marys, OH
4	1/6/2015	Sue Brannon		St. Marys, OH
5	1/6/2015	Pat Hammer		St. Marys, OH
6	1/6/2015	Marilyn Pohlman		Russia, OH
7	1/6/2015	Mary Rampe		Spencerville, OH
8	11/27/2014	Sharon Gottschalk		St. Marys OH
9	11/26/2014	Tammy Kennedy		St. Marys,OH
10	11/28/2014	Lisa Grant		St. Marys, OH
11	11/27/2014	Gerald & Mildred Vanderhorst		St. Marys, OH
12	11/28/2014	Jack Layman		St. Marys, OH
13	11/28/2014	Rick Morrow		St. Marys, OH
14	11/28/2014	Richard Zepernick		St. Marys, OH
15	11/28/2014	Beverly & Mark Brueggeman		St. Marys, OH
16	11/28/2014	Mrs. Bidwelll		St. Marys, OH
17	11/28/2014	Patrick Moran		St. Marys, OH
	11/28/2014	Frank & Martha Kuhlman		St. Marys, OH
19	11/28/2014	Jon Heyne		St. Marys, OH
20	11/28/2014	Tom * Last name not legible on	fax received	St. Marys, OH
21	11/28/2014	Marjorie Stienecker		St. Marys, OH
22	11/28/2014	Mr. & Mrs. DeWayne Marsee		St. Marys, OH
23	11/28/2014	William Walfrert		St. Marys, OH
24	11/28/2014	Carol Raymond		St. Marys, OH
25	11/28/2014	Frankie Mcelfersh		St. Marys, OH
26	11/28/2014	Mr/Mrs Baucher * First name	not legible on fax rec'd	
27	11/28/2014	David Highley		St. Marys, OH
28	11/28/2014	Teresa Vint		St. Marys, OH

All similar comments are summarized and grouped.

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Comment 1A. Permit to Install – Ground water and surface water quality:
The scientific evidence points to the agricultural run-off, in the form of manure spreading, are the leading cause of the pollution of Grand Lake St. Marys.

The GLSM watershed is the ONLY "distressed watershed" in the State of Ohio. Over the past four years, the microcystin levels have increased 285% and the permitting of livestock facilities have soared in this watershed since the year 2000.

I am concerned about whether my well water is safe for drinking, cooking, etc. and I am going to get an extensive water analysis for information.

A tainted water supply for the City of Celina requiring a multi-million dollar addition to the Water Treatment Plant and now the City of Celina is trying to dig deep wells for an alternative drinking water supply;

A high risk to the health of people and animals that use the lake; and research is pointing to a link between microcystins and liver damage and tumor promotion as reported by the Ecotoxicology Program, California Office of Environmental Health Hazard Assessment;

Response: In general, this comment relates to the water quality issues within the Grand Lake St. Mary's (GLSM) watershed. Although the Wilker Eggs and Grain Farm, LLC is near the eastern border of the GLSM watershed, none of the production area is within the drainage area of GLSM. In addition, the land application of manure from this facility is planned to be distributed to acres even farther east of the watershed boundary and should have no impact on the water quality within GLSM watershed. However, the law does not

focus on one watershed and all water quality should be protected no matter where the water drains. Therefore, if in-fact manure from this facility were to be spread on acres within the GLSM's watershed, it shall be done in accordance with OAC § 901:10-2-14 or the rules set forth by the Ohio Department of Natural Resources, Division of Soil and Water Resources, for distressed watersheds. These rules were implemented to protect and minimize degradation of surface water and all manure nutrients are to be utilized following best management practices and agronomic principles.

In regards to the comment that "...permitting of livestock facilities have soared..." in the GLSM's watershed, it shall be noted that ODA-Division of Livestock Environmental Permitting (ODA-DLEP) has regulated and permitted such operations since 2002. Currently, there are 16 facilities that are permitted by ODA-DLEP in the GLSM watershed and all of those facilities were in existence prior to 2002. Those 16 permitted facilities have been selling over 90% of the manure that they generate to Certified Livestock Managers (Brokers/Custom Manure Applicators) and they have been moving approximately 90% of the manure out of the watershed for at least the last 5 years.

As far as concerns about ground water quality, the facility is required to test the well water annually for nitrates and bacteria. The analysis provided as part of this permit indicated that no bacteria were present and nitrates were below detection levels.

Comment 1B. Groundwater Quantity

I've learned that an egg farm uses water to hydrate the birds, I assume it is used for some cleaning, and that cool water is pumped out of the ground to cool the houses in warm months. The enlargement to this farm would no doubt drop the level considerably, affecting many wells.

About 9 years ago, I had to have a new well dug. This cost approximately $5,000.00. This well is165 feet deep, 40 feet deeper that the first one.

<u>Response</u>: This facility proposes to use approximately 13,400 gallons of water a day from private wells at the facility to provide water for the birds. There is no egg processing water used at the facility and no water used for cooling or heating. ODA has no regulatory authority over groundwater withdrawal and simply require the facility to estimate the average daily withdrawal proposed by the facility at maximum animal design capacity.

If a facility has the capacity to use greater than 100,000 gallons of ground water per day, it is required to register with the Ohio Department of Natural Resources, Division of Soil and Water Resources (ODNR-DSWR) as required by Ohio Revised Code Section 1521.16. In addition, if surrounding residences or local officials have concern over groundwater usage, they may wish to contact ODNR-DSWR.

All of the nearby well logs were included in the review of the permit. This commenter's well, contrary to the comment, was drilled in August of 2008, with a casing length of 81 feet to limestone bedrock and a total depth of 146 feet with static water level at 16.4 feet from surface and a 30 gallon/ minute test rate and 35 foot drawdown.

Comment 1C. Permit to Install (PTI) – Siting Criteria

This farm is located in the middle of a heavily populated, residential area. It is ¾ of a mile from the multi-million Otterbein Retirement Center and Nursing Home. This facility has many people with compromised immune systems. It is 3/4of a mile from Southmoor Shores that is a large lakeside community. It is 3/4 of a mile from a popular restaurant and campground. It is 3/4of a mile from Grand Lake St. Marys. It is 1 1/2 mile away from the canal feeding through St. Marys. It is 3 miles to St. Marys whose motto is "Where Living is a Pleasure."

WILL THE NEW EXPANSION EXIST IN AN AREA WHERE OUTDOOR RECREATIONAL ACTIVITIES ARE ONGOING, ESPECIALLY DURING WARMER TEMPERATURES?

WILL THE NEW EXPANSION EXIST IN AN AREA WHERE POPULATION 0 F FAMILIES LIVE AND WHERE RETIREMENT/HEALTH FACILITIES EXIST ALREADY?

A FAMILY FARM HAS EVERY RIGHT TO OPERATE AN UNPERMITTED BUSINESS, BUT TO EXPAND IN THEIR PRESENT LOCATION IS NOT BENEFICIAL TO THE COMMUNITY IT RESIDES IN. THESE PERMITTED OPERATIONS NEED TO BE AWAY FROM RECREATIONAL AREAS, WHERE FAMILIES (CHILDREN AND ELDERLY} ARE ALREADY LOCATED

Response: ODA rules require that all new manure storage or treatment facilities meet the requirements set forth in OAC § 901:10-2-02 and this facility meets those criteria. Specifically, this facility is in an agricultural area, the proposed manure storage structure is at least 100 horizontal feet away from the property line or public road, and is at least 50 horizontal feet away from a private well and 300 horizontal feet away from a public well. The proposed manure storage structure is to be located no closer than 120 horizontal feet from a stream and no closer than 500 horizontal feet from any neighboring residence.

Comment 2A. Permit to Operate (PTO) – Manure management and water quality:

From all the research that I've done, I've learned that poultry manure is the most toxic manure that there is. Although the Wilkers intend to store a half years' worth of manure (2,800 tons, which is 5,600,000 pounds) in their planned facility before cleaning it out, and although they say they will market this to crop producers (no doubt, other farmers in our watershed) and manure brokers, I am quite sure that some of their manure has been spread on area fields for years.

From what I understand, this manure is full of antibiotics, steroids, arsenic, e-coli, and rat poison. In researching this issue I've learned that the company, cleaning out our cesspools, mixes that waste with animal wastes to be used as fertilizer. I have also read that these "nutrients" are absorbed through the plant roots and enter the food chain.

I have read that no matter what waste collection holding tank is constructed it will eventually deteriorate, crack, or leak. This should be of further concern for the safety of our well water.

Of course the deep cracks, (several feet deep), in the top soil enable the manure applications to go more readily into our ground water (our well water).

Everything that the "Guardians of the Grand Lake St. Marys" said about the lake, also applies to the St. Marys River watershed and this farm sits right in the St. Marys watershed and this farm sits right in the St. Marys watershed.

Response: Given that the facility was not previously permitted, ODA-DLEP has no knowledge of where manure may have been applied in the past. The Manure Management Plan provided with this draft PTO states that all manure will be distributed (sold) to a manure broker who will transport the manure to cropland away from the Wilker Eggs and Grain Farm, primarily to the East and primarily out of the GLSM watershed. The broker the facility intends to use is a Certified Livestock Manager (CLM) and certified through DLEP. CLM's are also required to follow all requirements set forth in OAC § 901:10-2-14 for land applying manure. In addition, the CLM will be required to maintain records that will be inspected by ODA-DLEP and must ensure the proper application of nutrients associated with manure. ODA DLEP has no authority to regulate antibiotics, steroids, etc. in manure.

Wilker Eggs and Grain Farm will store manure at their facility in one of the two manure storage structures as depicted in the Manure Management Plan. They are required to have the capacity to store enough manure to be able to not apply on frozen or snow covered ground or at times when the soils are saturated or crops are being grown. According to the draft Permit to Install, they will have over 180 days in the new manure storage barn and over 2 years' of storage in the existing high rise barn. These structures will not be holding tanks as mentioned in the comment, but solid manure storage structures that will be at, or above, existing ground. Although deterioration is typically not an issue or concern with storing solid manure, the facility will be required to regularly inspect the structures to ensure there are no structural issues that would lead to environmental degradation. In addition, DLEP inspectors will inspect the structures during their routine inspections.

Soil cracks are typically not an issue with the application of solid manure.

Comment 2B. Permit to Operate (PTO) - Distribution and utilization of manure nutrients
In this watershed, there are currently permits under review for 3,408,755 animals that will generate more than 3.5 million gals. of liquid waste and 165 thousand tons of solid waste. Of all of these permits, it states that the waste will be land applied to recycle the nutrients as an organic alternative to imported commercial synthetic fertilizers. This is the worst scenario possible for the disposal of manure in our watershed because it continues to pollute GLSM.

Response: See Response to Comment 1A. above.

Comment 2C. Odors
The air was permeated with the smell of burnt chicken flesh and burnt feathers from their incinerator

Response: ODA is unaware of past practices with mortality disposal and odors associated

with the facility. Although some odor is expected with any livestock or poultry operation, the facility will be expected to be implementing best management practices to minimize excessive odor as required by OAC § 901:10-2-12.

Comment 2D. Fly Concerns

Flies are also a health hazard, but I feel this warrants its own heading. I am the one, Ron Wilker is quoted in the papers as having called the Auglaize County/Health Department a number of years back. On that particular day, I had already swatted 300 flies in my kitchen, I had at least 6 fly strips up, I could observe 6 or more mating flies on my walls, wallpaper, cupboards, ceilings lampshades at any given moment. They were even flying in tandem in my home. The flies had been bad for days and kept getting worse. I asked the Department of Health if they would do something about a horrible fly infestation. They wanted to know where the flies were coming from and I said I thought it was from the Wilkers barns and that it must have been something they either did or didn't do. That week a neighbor a few doors down had told me that his child's white bedroom ceiling looked completely black from flies. That evening an irate Deb Wilker came over with a raised voice and told me it was spring, and I lived in the country and that I "BETTER GET USE TO IT!!"

At this time I had already lived here almost 30 years and had never seen or imagined anything like this. The condition improved greatly after my call, so something changed.

We continue to have flies, I haven't called anyone again because I really don't know who to call and don't know if any agency cares or will do anything. This Spring, Summer and Fall have been particularly bad. There have been mating flies again.
I kept 5 fly strips up constantly, changing them every 4-5 days. In addition, I swatted at least 500 a week in my home. They landed on my arms, on my face, they bit people both inside and outside the house. I have found dead or thrashing flies in my toilet, in my dishwater, and even in a half drunk cup of coffee. I have opened the microwave, the refrigerator, and freezer and had a fly buzz out. My neighbor a half mile north told me she was killing at least 100 flies a day in her kitchen in November. Another neighbor said it was impossible to have a picnic outdoors. You couldn't even open a can of pop, inside or outside, without instantly covering the drinking hole. I had to shoo flies away with one hand while I tried to cook with the other. I had to shoo flies away to eat. In late November, when I found out about this farm expansion, I kept two fly strips that were up in my kitchen for evidence. I wrapped them in saran wrap and have them here for your viewing. When I went to a neighbor's home several houses south, in late November, and asked if they had lots of flies, she flung the door wide open so I could see 2 fly strips, with flies, hanging from her kitchen light, directly over their kitchen table. Then she said "just look around this garage." Then I observed numerous other devices they were employing to try and keep flies out of their house.. People on SR 364 have been plagued with flies. One person told me they've had really large flies, and lots of them all summer and fall.

I have always been told that flies carry disease. We are plagued with an intolerable condition now. We don't need it magnified

The fly infestation Mrs. Sheaks was talking about did not come from Wilker's Farm, but from a

neighboring farm that had turkey manure hauled in.(this manure was stock piled but not sprayed for flies.

I live across from the Wilker's Farm. We have never had flies as bad as the other neighbor complained about.

Response: ODA-DLEP cannot speak to past fly incidents around this area or at the facility since the facility has not been permitted in the past. In reviewing the applications, ODA visited the site and there were no issues with flies during this initial inspection. ODA legal staff performed a background check on the owners/operators and was not made aware of any past compliance issues related for excessive flies coming from the Wilker farm. As part of this PTO, the facility has included an Insect and Rodent Control Plan (IRCP) that includes management practices around the facility to minimize breeding habitat of flies on a continual basis. The facility will monitor for larvae and flies and if threshold levels are reached (as identified in IRCP), then actions will need to be implemented to reduce the levels to within acceptable limits. DLEP inspectors will review the records of these actions and also perform inspections of the barns for flies and larvae during their routine inspections. It should also be noted that biting flies would not be flies coming from a poultry facility. The species of flies that bite are not species that reproduce at a poultry farm. Biting fly species are generally found in wooded areas and are associated with wildlife, in particular deer.

Lastly, if any neighboring residences have fly issues they attribute to the facility, they should call the DLEP office and the DLEP inspector will investigate the complaint.

Comment 2E. Emergency Weather Conditions
Planned Emergency Response and Mother Nature
I have lived on Tri-Township for 39 years. During this span of time, I have experienced weather conditions that would make it nearly impossible to sustain the planned enlargement of this operation. Additional comments related to weather events that could lead to catastrophic events at the facility.

Response: The PTO requires that an Emergency Response Plan (ERP) be provided that addresses not only weather related events, but discharge or other types of emergencies. These farms are constructed with back-up power sources that are more than adequate to handle most extreme weather conditions. However, there are some events (tornados, fires, etc.) that cause catastrophic situations that have to be dealt with at the time of the event. The ERP requires the facility to have these situations addressed so the response to these events is effective and the remedial actions are implemented in a timely manner.

Comment 2F. Mortality Disposal
General concerns were presented over improper disposal of animal mortalities in the general area and decaying animals present, although the comments were unclear if they were related to Wilker Eggs and Grain Farm.

Response: The PTO requires that the facility provide a Mortality Management Plan that

describes how normal and catastrophic mortality will be handled by Wilker Eggs and Grain Farm. Approved methods by state law/rule are burial, composting, landfilling, rendering, incineration and alkaline hydrolysis. Wilkers plan to continue to use incineration for typical mortality and in the case of a catastrophic event, they will plan to use a rendering service or have the mortality hauled to the landfill. All these methods are approved and best management practices shall be followed as part of the permit.

Comment 3. Health Concerns

I am concerned that the poultry manure has spores that cause Histoplasmosis. These spores remain in the ground for years and become airborne every time the soil is disturbed by digging, plowing, etc. We all breathe these in, and usually develop flu-like symptoms. Histoplasmosis can do damage to your lungs and eyes and can lie dormant in your body and effect you later. Twenty-five years ago, my husband developed ocular Histoplasmosis and his surgeon said that it was caused by chicken manure. Luckily, he retained some of his eyesight after emergency laser surgery. Anyone with weakened immune systems is more susceptible to adverse complications.

My granddaughter has PANS, an autoimmune disorder. She is on expensive compounded prescriptions and azithromycin (Z-Pac) to keep many, almost debilitating symptoms under control. When she is exposed to sources of infection, her body makes antibodies that affect her brain. This child is at my home for almost 3 hours on school days, and is with me about 10 hours a day all summer while her mother works. She needs no more sources of infection.

Large poultry farms are breeding grounds for various diseases which can\spread to the community via water, air, rodents, humans, the environment, etc.. Rates of new infectious diseases are on the rise and statistics clearly indicate that chicken production plays an integral role in this increase.

<u>Response:</u> ODA-DLEP does not regulate human health diseases. However, there is reference material related to Histoplasmosis and the transmission of the disease from poultry to humans located on the Centers for Disease Control (CDC) web site: <u>http://www.cdc.gov/fungal/diseases/histoplasmosis/index.html</u>. According to the CDC, the formation of Histoplasmosis spores requires that the birds and manure be in contact with the soil. In the case of the Wilker facilities both the birds and manure are not in contact with the soil. As far as other diseases, with biosecurity measures practiced and regular monitoring of bird health, we do not have any documented instances of specific health issues to date from the Wilker facilities.

4. Comments receiving no response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The areas over which ODA has been granted authority are very limited and are covered under the Permit to Install and Permit to Operate. ODA has not been given any statutory authority to regulate the following subject areas:

- Property values
- Air emissions
- Antibiotic use
- Feed additives
- Wildlife
- Economic Development
- Other facilities/facility owners

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Responsiveness Summary to Public Comments on the Spitnale Pigs Ltd. Draft Permit to Install and Draft Permit to Operate April 28, 2015

On February 11, 2015, the Ohio Department of Agriculture (ODA) issued a public notice that Spitnale Pigs, Ltd., had been issued a draft Permit to Install (PTI) and a draft Permit to Operate (PTO). This public notice opened the public comment period on the draft permits. Due to significant public interest, a public meeting was scheduled. A public notice for the public meeting was published on March 25, 2015, in the *Putnam County Sentinel*. This public notice stated that an open house and public meeting would be held at the Coverdale Town Hall located at 210 Mahoning Street, Cloverdale, Ohio 45827, on April 28, 2015. The open house began at 6:30 pm. The public meeting to accept public comments began at 7:00 pm. The comment period ended at 5:00 p.m. on May 5, 2015.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to Section 901:10-6-04 of the Ohio Administrative Code (OAC), persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code (ORC) Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The ODA considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of storm water runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.

Public Comments Submitted by:

No.	*Date Received*	*Name*	*Organization, if Any*	*Address, City, State*
1	*4/28/2015*	*Tim Britsch*		*706 S. Rivers St. Cloverdale, OH*
2	*4/28/2015*	*Tracie Chandler*		*21423 St. Rt. 694 Cloverdale, OH*
3	*4/28/2015*	*Timothy Fife*		*21338 St. Rt. 694 Cloverdale, OH*
4	*4/28/2015*	*Daniel Prowant*		*21486 Rd. I-17 Cloverdale, OH*
5	*2/23/2015(written)*	*Tim & Lori Fife*		*21338 St. Rt. 694 Cloverdale, OH*
6	*5/5/2015 (written)*	*Tracie Chandler*		*21423 St. Rt. 694 Cloverdale, Ohio*
7	*3/9/2015 (written)*	*Judy Spitnale*		*21148 Rd. J Cloverdale, Ohio*

All similar comments are summarized and grouped.

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Comment 1A. Permit to Install – Ground water and surface water quality:

When ground water is tested at the facility is it being tested at different levels... 50ft, 100ft, etc.?

How often is the ground water being tested... once a day, every other day, once a week, every two weeks?

Who is performing these ground water tests at the farm?

When this is recorded is it available for the public to view?

Where would we find these records on the water being tested?

Is the testing of the ground water regulated by state agencies?

Who is going to pay for the loss of our use of water if it is contaminated by this pig farm?

We are worried about water quality.....

Run off, ground water is an issue. Not to mention the pollution that goes along with the operation.

Response:
The proposed fabricated manure storage structure (concrete deep pit) was designed in accordance with ODA rules and the American Concrete Institute standards. ODA Rules require that a licensed professional engineer (P.E.) develop the design in accordance with these rules and standards. In addition, the PTI requires a geological exploration and an accompanying report to demonstrate the proposed site for the manure storage structures meets ODA rules intended to protect groundwater quality (found in OAC Section 901:10-2-02). The geological exploration report was also developed by a P.E. and is included in the PTI. The report concluded that all borings encountered a thick layer of very low permeability clay located directly below the planned bottom of the pit. Further information on the subsurface conditions at the site is included in the PTI.

ODA rules require that facility has a ground water sample tested annually from a well that is properly installed, located, protected and operated. At the Spitnale Pigs Ltd. facility the production well will be used for sampling. This well is 240 feet deep and pulls water from the limestone aquifer. A copy of the certificate of analysis for a recent groundwater sample is included with the PTI. Spitnale Pigs Ltd. will be required to perform an annual groundwater quality test for nitrates and total coliform bacteria as part of their Permit to Operate and the test results will be maintained in the facility operating record. For concerns associated with groundwater, the best place to sample is at the farm itself. The production well used at the site would likely pull more water from the aquifer than the surrounding individual homes. Therefore, any potential pollution from the facility should first appear in the production well due to the localized water drawdown from the production well, called the "cone of depression."

If wells would become contaminated around the facility after it becomes operational, then the source of the contamination would be researched. Once the source of contamination is confirmed, appropriate remedial actions will be implemented. Liability for any contamination would be determined once the cause and source of contamination was defined.

The entire facility is designed to be "zero-discharge", meaning that all manure is contained within properly designed manure storage structures to prevent any means of surface water contamination from manure runoff originating from the site.

Comment 1B. Groundwater Quantity

I wanted to ask questions about how exactly does the ground water, how much ground water exactly does the pig farm use? I mean I live right across the street, so the ground water is very, it is a concern of mine, I mean, whether it's there or not going to be there. I know I talked to the gentleman and he says they check it. I want to know about daily use. How much does a pig go through?

The ground water pollution, run off, not to mention the ground water usage. There are several other counties around that have had several mega farm type operations go in and people all around within a five mile radius have had to go in an drill their wells deeper and deeper.

How much ground water does an individual pig use per day?

How much ground water does the pig farm facility use in a day, week, month?

How much water will this extra barn going to use, and what happens if our water table drops also?

Response:
Spitnale Pigs Ltd. projects an average water usage of 7,761 gallons per day, which would be equivalent to 5.4 gallons per minute or 1.62 gallons per pig per day. The Ohio Department of Natural Resources (ODNR) Division of Soil and Water Resources has prepared a Ground Water Resources Map for Putnam County, which indicates the limestone aquifer supplying Spitnale Pigs Ltd. and the surrounding area is capable of delivering more than 100 gallons per minute at depths of more than 100 feet. Based on the rating of the supplying aquifer, there should be no adverse effects to the neighboring wells due to the projected water usage by the swine facility.

ODA has no regulatory authority over groundwater withdrawal. If a facility has the capacity to use greater than 100,000 gallons of water per day, it is required to register with the ODNR Division of Soil and Water Resources, as required by ORC Section 1521.16. Spitnale Pigs, Ltd. estimates a daily withdrawal rate of approximately 7,761 gallons per day. Therefore, it is not required to register with ODNR Division of Soil and Water Resources. If there are additional concerns, local government officials, in cooperation with area residents, can request ODNR's Division of Soil and Water Resources to assist in conducting detailed studies. ODA does not, nor does any state agency, have the authority to allocate quantities of ground water among all actual or potential users because Ohio law allows for the reasonable use of ground water for beneficial purposes.

Comment 1C. Permit to Install (PTI) – Manure Storage Structures

Where is the manure lagoon located on the property of the farm?

How big are the under pits at the farm?

How many gallons of manure can they hold?

How long are they allowed to hold the manure?

Are there any laws in place to regulate this?

Response:
Fabricated liquid manure storage structure must be sized, designed and constructed in constructed in accordance with ODA rules found in OAC 901:10-2-01 through 901:10-2-05. The Spitnale Pigs, Ltd. facility will store liquid manure in two concrete tanks, one located beneath the floor of each of the two barns. Each concrete tank is sized to hold more than a year's worth of manure, or about 1,073,000 gallons. No earthen manure storage structures or lagoons are proposed to be constructed with this permit.

Comment 2A. Permit to Operate (PTO) – Manure management: Land Application

How much manure does one pig produce a day or how much manure does the factory farm produce in one day?

If liquid manure is applied, are observations of subsurface drains recorded in the manure application record?

Are application rates and nutrients applied in accordance with ODA rules for nitrogen and phosphorus?

What about spreading after a rain?

Will the manure be incorporated within in 24 hours? If not, who do we call to get something done?

Doubling the number of hogs would also double the trouble as far as manure management. The one time I was aware of the barn being pumped out, the sludgy, [manure] stuff was put on the field directly across the road from my home. The operator pumped for at least four hours, all put on about sixty acres...I don't know where twice the amount of waste will be deposited.

Response:
Spitnale Pigs, Ltd. estimates that after the proposed expansion, the facility would generate about 1,176,000 gallons of manure per year or an average of about 0.67 gallons per pig per day.

Manure would be applied using best management practices (BMPs) and in accordance with ODA rules, with the intent to replace more soluble commercial chemical fertilizers that would

otherwise be used to provide the same nutrients on the same cropland. OAC 901:10-2-13 requires that soil samples be taken at least every three years for the lesser of 25 acres or the planned land application area. The most recent results of these samples are provided in the permit in the Manure Management Plan (MMP). The land application of manure under the control of a concentrated animal feeding facility (CAFF) must also follow setbacks to protect waters of the state. For instance, a setback of 35 feet of vegetative buffer, or 100 feet if not vegetated, is required for all surface manure application to protect waters of the state. See, OAC 901:10-2-14, Appendix A, Table 2.

ODA also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. Twice each year, a department inspector conducts a full inspection and correlates the MMP with the data recorded in the Operating Record, such as the crop yields, annual manure analysis, and new soil samples collected. See OAC 901:10-2-10 for manure and OAC 901:10-2-13 for soils and testing frequency.

Application rate criteria are set forth in ODA's rules, and all of these criteria are evaluated to determine what the most limiting factor for the field is at the time of application. The application rate criteria include, but are not limited to, the nitrogen needs of the crop being grown, phosphorus levels as stated in required soil tests, and the available water capacity of the soil at the time of application. Refer to OAC 901:10-2-14. Based on this evaluation, the permitted application rate is determined and that application rate is used for that period of application. Generally, the most limiting factors are the nutrients evaluated and, for liquid manure, the available water capacity (AWC) of the soils in the field. The AWC is often the most limiting factor for a single time liquid manure application because the water holding capacity of the soil may be achieved in a single application before the allowable nutrients are applied. Limiting liquid applications to the AWC ensures that soils are not over-saturated and limits the downward movement of nutrients through the soil profile. This serves as a means to prevent groundwater contamination from manure application events. For further analysis of the available water capacity chart, refer to OAC 901:10-2-14, Appendix B. In addition, depending on the time of year, additional nitrogen limitations are evaluated, as provided in OAC 901:10-2-14(D). Additional criteria also heavily restrict application on frozen or snow-covered ground, as provided in OAC 901:10-2-14(G).

As described in OAC 901:10-2-14(E), the application rate for phosphorus is determined using soil test data, the phosphate requirements for the planned crops or crop rotations, and either the phosphorus index risk assessment procedure in Appendix E, Table 1 or the phosphorus soil test risk assessment procedure in Appendix E, Table 2 of the rule.

Weather must be recorded for a period 24 hours before, during and 24 hours after manure applications to ensure that rainfall will not cause manure to leave the application site. As noted in OAC 901:10-2-14(C)(6), land application of manure shall not occur if the forecast contains a greater than 50% chance of precipitation of an amount of one half inch or more for the period of 24 hours after the start of land application. Though weather forecasting is not an exact science, limiting liquid manure applications ahead of anticipated precipitation events provides some measure of protection against the potential downward movement of manure nutrients through the

soil profile, and serves as a means to prevent groundwater contamination from manure application events.

As described in OAC 10-2-16(A)(3), when liquid manure is applied to a land application field with subsurface drains and concentrated flow areas, the operator must document in the operating record the periodic observations of the subsurface drain outlets and concentrated flow areas for liquid manure flow during and after application.

Following these BMPs and department rules will minimize any potential impact to the watersheds where the manure will be utilized. However, in the event of a discharge, the farm is required to immediately notify ODA of any discharge, begin immediate remediation and corrective measures to stop further discharges, collect samples of discharges and allow ODA department to inspect and test. Enforcement measures, including fines and penalties, are provided in rules and statute to address violations.

Comment 2B. Permit to Operate (PTO) – Soil Testing of Land Application Fields

How often are soil samples taken at the farm?

Are they taken from various areas on the farm acres?

Who is involved in taking these samples?

When these samples are taken do they go to a laboratory?

Are these records on file to be viewed by the public?

Response:
ODA rules found in OAC 901:10-2-13 that each land application must be represented by soil samples that are not more than three years old and each soil sample can represent not more than 25 acres. Samples must be analyzed by a laboratory in accordance with Publication 221, "Recommended Chemical Soil Test Procedures for the North Central Region; Published by the North Central Regional Committee on Soil Testing and Plant Analysis (NCR-13), North Dakota Agricultural Experiment Station." Copies of current soil test reports are included in the PTO. Any updated soil test reports will be maintained in the facility's operating record.

Comment 2C. Odor Concerns

Every time the wind blows, all I smell is hog crap, if the wind is out of the south.

We've got a dairy farm, right outside of Dupont, now we have a turkey farm in Cloverdale and they want to double their operation. You know, I mean, at some point in time there is not going to be a place where you can go to bed or wake up , you know, without smelling crap anywhere in the area.

Does Ohio State have odor regulations for the CAFO?

Are the factory farms allowed to spray liquid manure on the field allowing it to go into the air?

We have been unable to enjoy our outside space since the first barn went in, due to the smell. Just imagine the smell if another barn goes in!!!!!

Has our life-style changed? Of course! The cold has settled the odor, but the warmer the weather, the more it smells! Last summer we were no longer able to leave any windows or doors open or even put laundry outside to dry. We used to sit outside and watch for deer and turkeys, but now it is impossible due to the odor. It constantly smells. At times, it was best not to be out at all.

The odor was sharp, burning, and extremely bothersome. It lasted for probably three weeks, and by that time the odor had seeped into the house, into our clothing, and into the cars. If we went away, we were always apologizing for bringing in the smell.

Response:
Odor minimization is required by ODA rules and the conditions of the PTI and PTO. In the Manure Management Plan of the draft PTO, Spitnale Pigs, Ltd. has identified specific Best Management Practices listed in OAC Rule 901:10-2-12 to minimize odor. These include removal and land application of manure when wind direction is less likely to affect neighboring residences and injection or incorporation of manure when at all possible.

Odor is something that will be evaluated during routine ODA inspections and complaint investigations. Inspectors would determine if the permit was being followed and if the odor was occurring as a result of the producer not following Best Management Practices. If the permits are not followed, the farm could be subject to an ODA enforcement action.

Comment 2D. Facility Inspections and Enforcement

If you could tell me how often are these barns inspected after the livestock is in there. I mean is it once, is it every month, is twice a month, and when they do get inspected to they get prior notice? Are they notified ahead of time, a week ahead of time so.. that was a question I have.

How often are the pig farms inspected... daily, weekly, or monthly?

Who inspects these farms... County Agencies or State Agencies?

Same way with the policing every two years, every two months, twice a year. It's not enough. What's wrong with once a month?

Are there any regular inspections done by state officials of the lagoons and or the factory farm after the farm has been operational?

How many times are the barns inspected? Not once or twice a year. Should be weekly at least!

What happens if these farms have violations?

If there are any violations pertaining to the factory farm, are these records accessible to the public?

What kind of violations can a pig business be fined for?

Response:
ODA inspectors typically perform two routine inspections each year. If there are complaints or concerns at a farm then ODA inspectors will perform additional partial inspections. Routine inspections are usually scheduled in advance to coordinate and accommodate bio-security protocols and to ensure appropriate farm personnel will be on site with the appropriate records readily available for inspection. Unannounced inspections are at the discretion of the ODA inspector.

If the facility fails to comply with ODA rules and regulations, then it will be subject to enforcement action described in OAC 901:10-5-04. Enforcement documents and proceedings are public records.

Inspections by the Ohio Department of Agriculture occur much more frequently than required by the U.S. EPA, which recommends one inspection every five years.

Comment 3. Emergency Response Plan

What happens if there is a lagoon spill or run off? What emergency plan is there in place?

Response:
As required by ODA rules, the PTO for Spitnale Pigs Ltd. includes a detailed Emergency Response Plan (ERP) that identifies the steps to be taken in the event of a spill or runoff event. The ERP includes the following information: the actions to be taken to contain or manage the spill; the authorities to be contacted; the equipment and clean-up materials that would be required and how they would be employed.

Comment 4. Regulation of CAFFs within Ohio

What constitutes a pig farm? I mean if you have one pig does that mean you have a pig farm?

... how many factory farms, livestock pig farms can be in one township?

How many factory farms are allowed in one area... Putnam County/Perry Township?

Is there a law as to how many factory farms can reside in one township?

Is there a law as to how many factory farms can reside in one county?

Is there a limit as to how many pigs/swine a facility can have?

What is the animal ratio to acres?

How many factory pig farms are currently in Perry Township?

How many factory pig farms are currently in Putnam County?

Response:
ORC Chapter 903.01 defines an animal feeding facility (AFF) as any lot, building, or structure where livestock are housed for at least 45 days out of a year. A concentrated animal feeding facility (CAFF) is defined as an AFF above a certain animal design capacity threshold for which a permit must be obtained from ODA. For swine weighing more than 55 pounds, any facility with a design capacity exceeding 2,500 head would require a permit from ODA. The design capacity of a CAFF is limited to what is clearly stated in the approved ODA permit. Spitnale Pigs Ltd. has a design capacity of 4,800 head and is limited to this capacity without the issuance of another PTI.

Each permitted CAFF is required to abide by their manure management plan (MMP), which identifies the land application fields to be used by that facility alone. The number of CAFFs in any geographic area would be limited by the total amount of manure nutrients generated and the availability of suitable and distinct land application fields not already included in an MMP.
In addition to Spitnale Pigs, Ltd. there are two other permitted swine CAFFs in Putnam County. Spitnale Pigs, Ltd. would be the only permitted CAFF in Perry Township.

Comment 5. Livestock Care Standards

Does the factory farm use electrical prods on the pig? If so what is the voltage?

Response:
Specific details of animal handling are not part of the facility permit. However ODA's Livestock Care Standards Board has established rules addressing livestock care issues under OAC Chapters 901:12-1 through 901:12-15.

Comments receiving no response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The areas over which ODA has been granted authority are very limited and are covered under the Permit to Install and Permit to Operate. ODA has not been given any statutory authority to regulate the following subject areas:

- Property values
- Air emissions
- Antibiotic use
- Impacts to roadways
- Transportation of livestock
- Noises
- Livestock previously housed at the site