Maricopa County
Air Quality Department

Permitting Division
1001 North Central Ave.,
Suite 125
Phoenix, Arizona 85004
Phone: 602-506-6010
Fax: 602-506-6985

June 10, 2016

Dear Sir or Madam:

On November 16, 2015 the Maricopa County Air Quality Department (MCAQD) received a minor modification permit application for Non-Title V Air Quality Permit # 140062: Hickman's Egg Ranch. On March 15, 2016 MCAQD issued the draft permit for public review and comment. A public hearing also was held on April 19, 2016 to receive comments relating to this permit.

After careful consideration of all of the comments received, no changes were made to the permit. The department has issued the Non-Title V Air Quality Permit as listed above.

We appreciate the interest and concern expressed by the citizens of Maricopa County in helping to ensure that each permit issued by the department meets all legal requirements. A copy of the comments and the department's written responses is attached to this letter.

I would like to thank you again for your interest in matters affecting Maricopa County's air quality. If you have any questions regarding this letter or the attached responses, please contact me at (602) 506-1842.

Sincerely,

Richard A. Sumner
Permitting Division Manager, Maricopa County Air Quality Department

cc: Todd Martin, Non-Title V Supervisor
File

Maricopa County
Air Quality Department

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RESPONSIVENESS SUMMARY FOR
Hickman's Egg Ranch
Permit #140062
June 10, 2016

INTRODUCTION

This facility houses chickens for the production of eggs for human consumption. The egg producing and processing establishment is located on an agricultural farm land. Each of barns at the site is ventilated by a system of fans. Each barn is equipped with a diesel-fueled emergency generator engine. In the event of line power failure, the emergency generator engines will provide power to the fans.

This permit action is in response to a minor permit revision to add eight (8) units of diesel-fueled emergency generator engines to the existing twelve (12) units, and two (2) propane-fueled boilers to provide hot water for the egg washing and processing operations.

Documents upon which MCAQD relied in reaching the final permit decision, and as referenced in the response to comments, such as the Technical Support Document and supplemental documents, are contained in the Public Record. Copies of the application, MCAQD's response-to-comments document, final permit, and final Technical Support document may be obtained at the Maricopa Air Quality Department located at 1001 N. Central Avenue, Phoenix, Arizona 85004, by contacting the department at 602-506-6010 or submitting a public record request online at: http://www.maricopa.gov/aq/contact_us/public_records/Default.aspx

COMMENTS AND RESPONSES

MANUFACTURING VERSUS AGRICULTURE/AGRICULTURE BEST MANAGEMENT PRACTICES (AG BMP)

1. ***Several comments were received regarding the boundaries to be governed by agricultural BMPs. Examples:***
   - ***(1) The primary SIC code for this would be 2015 and 2875. Because the primary revenue sources are not agriculture, they are selling processed foods and manufactured manure and chicken pellets.***
   - ***(2) The facility has both agricultural and manufacturing processing, by its own admissions, but this agency is hiding the fact that they are perpetrating a fraud that this is just agricultural, claiming that it's related under agricultural BMPs. Even those agricultural BMPs don't fit the facility that this agency ignores and creates a friction. Further, the facility is not actually within the proper boundaries to be governed by agricultural BMPs.***
   - ***(3) Those agricultural BMPs don't fit the facility that this agency ignores and creates a friction. Further, the facility is not actually within the proper boundaries to be governed by agricultural BMPs. The Arizona Department of Agriculture's documents -- which I attempted to email to your agency three times today, but I don't know if it actually went through -- if you would consult the maps you'll find that you are outside the jurisdiction of them. You have no business referring to those as BMPs. Your agency violates its own rules under the federally enforceable SIP law permits issued to Hickman's.***
   - ***(4) The department actually is incorrect in its application of A.R.S. 49-457. While the definition for regulated agricultural activities is correct, regulated agricultural activities must also be within a regulated area and I do have a copy of that if you want to look at it. And according to the department's website, this facility at 41625 West Indian School Road is not in the Maricopa County PM10 particular non-attainment area. It is not in area "A" and it's not in any other PM10 particular non-attainment area. So that's a major reason why I'm saying this permit is flawed.***
   - ***(5) When you reviewed the maps provided to the Arizona Department of Agriculture and Maricopa County, okay, this Tonopah facility is outside the AgBMP. It's not an AgBMP governed facility. So if we could come to you to stop (indiscernible) yet perpetrating fraud by telling people this stuff.***
   - ***(6) The facility should not be entered – excuse me -- should not be operating under Best Management Practices, because it's not even located in the relegated area, as stated in A.R.S. 49-457 P.6. The complaints should be handled by Maricopa County so there's no reason to involve the ADEQ.***
   - ***(7) The particulate matter from across this industry. Again, the handling of the grain and things there is across this industry, and it does not enjoin the general agricultural permit – agricultural general permit.***

RESPONSE: MCAQD does not rely on self-reported SIC/NAICS codes to make permitting decisions. For regulations that affect a specific industry, the Permit Engineer determines the appropriate code on a case-by-case basis. Egg production is the primary activity at this facility (SIC 0252). Other ancillary activities may be present, but are secondary to egg production.

Hickman's Egg Ranch meets the definition of a "commercial poultry facility" under R18-2-611.3.h, which is classified as a regulated agricultural activity under A.R.S 49-457. As such, ADEQ has exercised jurisdiction over all agricultural activities regardless of whether or not they are located within the PM_{10} nonattainment area and applied the Agricultural Best Management Practices. Maricopa County does not regulate dust emissions

generated by farms per Rule 310 §103.1. Normal farm cultural practices are exempt from Rule 310 per Arizona Revised Statutes (A.R.S.) § 49-457 and A.R.S. § 49-504.4. Therefore, even if BMPs didn't apply due to the facility being located outside of the PM10 non-attainment areas, dust generated by agricultural activities is exempt from MCAQD rules.

PLANNING AND DEVELOPMENT - PROPERTY VALUES

2. ***Numerous comments were received regarding planning and development services involved with a proposed and imminent use of a property or an existing use, and property values.***
   Examples:
   - ***(1) How, in 2016, can this thing plop down in the middle of residences?***
   - ***(2) And I always noticed signs put up everywhere before development occurs, you know, saying, is there anybody who wants to make a comment about –about what we're proposing? I never saw a sign like that for this Hickman deal.***
   - ***(3) How can the county allow this farm to be built so close to these residents?***
   - ***(4) We have suffered the loss of our community future. It's not what was planned at all. It's not what was in the Arlington, Tonopah area planned—that was done with planning and zoning.***
   - ***(5) They need to be held accountable for their disregard for the rules. Somebody needs to do their job and close down their facility, get them moved to an area where they are not affecting businesses, where they are not affecting the health of the community, and somebody needs to do their job anyway.***
   - ***(6) The properties in the area, the values are dropping like stone.***

RESPONSE: MCAQD only regulates air pollution. Location is typically not taken into consideration in the issuance of an air permit, only whether the facility is capable of complying with applicable rules. Consequently, issues relating to zoning should be directed to the Maricopa County Planning & Development Department at (602) 506-3301 or www.maricopa.gov/planning.

PERMIT APPLICATION AND COMPLETENESS OF APPLICATION

3. ***A comment was received issuance of Earthmoving permits and Non-Title V permit applications.***
   Examples:
   - ***(1) The department was aware of the construction assess control permit E10 with 41-7, that was issued on January 30th, 2014. There were a number of dust violations. I've got the numbers here so I won't mention each of those and, of course, there were numerous complaints and concerns from the community that had already started and all these are being provided to the department. The County knew that an air quality permit was needed for the operation because the owner's owned an egg ranch facility to operate under the air quality permit to operate or construct. Despite warnings from the community, the facility was operating without an air quality permit. The department did not conduct an inspection until 3 days after the permit was issued and inspection did result in the notice of violation of 73.995 because the facility was in operation without an air quality permit.***

RESPONSE: Initial construction was started without a permit and a Notice of Violation was issued.

4. ***Numerous comments were received regarding the completeness of the permit application.***
   Examples:
   - ***(1) The application is incomplete and should not have been processed. In fact, all of the applications for Arlington submitted by Hickman's, at both locations, have always been incomplete, and should never have gotten processed. The permit and hearing notices, until now, have been incomplete and legally insufficient. So the permit that was issued from the***

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previous notice for 2014 was an illegal permit.

(2) I have never before, until this one, seen one that did not include SIC code.

(3) I believe this application is incomplete according to the Rules of -- the application Rule 220, Section 301.2, a compliance plan in regards to the special condition of odor control should be included in this application and it says specifically, when the notice of violation has been issued and not resolved at the time the permit application is filed, or when a source is not in compliance with these rules, but has not been issued a notice of violation, and that's ongoing, they are in violation, because we can smell it. That is a violation of the condition of this permit. And so there should be a compliance plan about odor on this permit.

(4) I also believe that this application is incomplete because of the contradictory information. One of the applications says that they're going to install two generators; the other one says there's going to be eight. We don't know as a public what's really going on. Some of those generators it says were installed in September of 2014.

(5) With the obvious incomplete, and the inconsistencies that are in the statement, I believe that, according to the Arizona Statutes, that the Control Officer is required to deny this permit.

(6) Just in Section Z-M there, it states under form, "If supporting calculations are not included in the application, the application should be deemed incomplete."

(7) None of you like to be "played," as the term goes, and I think that's what's going on. This outfit is playing all of us, and there are things within your power that you can do to expect and require that they fill out their applications completely, that they adhere to these things.

(8) On the application, the air pollutant emissions page is blank.

(9) The Control Officer has chosen to submit the application for permit revision with incorrect information, two pages that are mostly electrical and missing crucial information. The application for the permit revision should be denied for these reasons.

(10) The 10,000 gallon diesel storage tank does not appear on the list of equipment to be installed, so perhaps it is is already installed. Also, it is not mentioned on the Technical Support Document. Note that this fuel is being used for "construction," not farm operations.

RESPONSE: The basis for the Control Officer to issue or deny a permit must be made from a determination as to whether the facility is designed to meet the provisions of the applicable air quality rules. Upon the completion of permit application review, MCAQD has determined that the new equipment is designed to meet the applicable air pollution control regulations.

The application submitted by the facility was determined to be complete, per Rule 220 Section 301.1, since sufficient information was provided during the course of the permit modification process for the Control Officer to assess the potential emissions and applicable requirements. This same process is followed for all permit applications submitted to MCAQD.

Permit Application Processing Procedures Rule 220 §301.1 states:

> To apply for a permit under this rule, applicants shall complete a permit application filed in the manner and form prescribed by the Control Officer. The Control Officer, either upon the Control Officer's own initiative or upon the request of a permit applicant, may waive the requirement that specific information or data for a particular source or category of sources be submitted in the Non-Title V permit application. However, the Control Officer must determine that the information or data would be unnecessary to determine all of the following:
>
> a. The applicable requirements to which the source may be subject;
>
> b. The design and control of the air pollution control equipment such that the source may be expected to operate without emitting or without causing to be emitted air contaminants in violation of these rules;

c. The fees to which the source may be subject under Rule 280-Fees of these rules; and

d. A proposed emission limitation, control, or other requirement that meets the requirements of Section 304 of this rule.

All requests for information have been fulfilled per Rule 220 §301.4 which states:

A complete application is one that satisfies all of the following:

a. To be complete, an application shall provide all information required under Section 301.1 of this rule, except that notifications of permit revision need supply such information only if it is related to the proposed change. A responsible official shall certify the submitted information, consistent with Section 301.6 of this rule.

b. To be complete, an application for a new permit or a notification of a permit revision shall contain an assessment of the applicability of the requirements of Rule 241-Minor New Source Review (NSR) of these rules and shall comply with all applicable requirements of Rule 241- Minor New Source Review (NSR) of these rules. If the applicant determines that the proposed new source is subject this Rule 241 of these rules, or the proposed permit revision constitutes a minor NSR modification, then the application shall comply with all applicable requirements of Rule 241 of these rules.

c. An application for a new permit, a notification of a permit revision, or a permit renewal shall be deemed to be complete unless the Control Officer notifies the applicant by certified mail within 60 days of receipt of the application that the application is not complete and specifies what additional information is necessary for the application to be complete.

d. If, while processing an application that has been determined or deemed to be complete, the Control Officer determines that additional information is necessary to evaluate or to take final action on that application, the Control Officer may request such information in writing and may set a reasonable deadline for a response. Except for minor permit revisions procedures as set forth in Section 406 of this rule, a source's ability to continue operating without a permit, as set forth in this rule, shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Control Officer. The Control Officer may, after one submittal by the applicant under this rule, reject an application that is still determined to be incomplete and shall notify the applicant of the decision by certified mail.

e. The completeness determination shall not apply to revisions processed through the minor permit revision process.

f. The Control Officer agrees with the notice of confidentiality submitted under A.R.S. §49-487.

g. Any emission source or equipment item listed in the definition of "insignificant activity" in Rule 100 of these rules shall be included in the application. The application need not provide emissions data regarding the activities listed in the definition of "insignificant activity" in Rule 100 of these rules. If the Control Officer determines that a source or an activity listed on the application does not meet the requirements of the definition of "insignificant activity" in Rule 100 of these rules or that emissions data for the activity is required to complete the assessment required by Section 301.4 of this rule , the Control Officer shall notify the applicant in writing and specify additional information required, which may include emissions data and supporting documents.

h. If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to Section 304 of this rule, a source shall describe that emissions limitation, control, or other requirement in its application, along with proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.

Sufficient information was available in the application to allow the department to calculate emissions and determine all applicable standards to which the source is subject.

MCAQD does not rely on self-reported SIC/NAICS codes to make permitting decisions. For regulations that affect a specific industry, the Permit Engineer determines the appropriate code on a case-by-case basis. Egg production is the primary activity at this facility (SIC 0252). Other ancillary activities may be present, but are secondary to egg production.

For this permit action, the application was received on 11/16/2015 for a minor permit modification to add two more diesel-fueled emergency generator engines and two boilers. During the review process, the application was amended to include six more emergency engines resulting in a total of eight for the modification. When the installation is complete, the total emergency engines on site will be 20. This was the number that was posted for the April 19, 2016 public hearing. The diesel storage tank is addressed in the Technical Support Document.

SOURCE CHANGES THAT REQUIRE NON-TITLE V PERMIT REVISIONS

5. ***Several comments were received with respect to the addition and operation of the boilers. Examples:***
   - ***(1) It appears that the permit is taking the same kind of approach with this minor permit modification, and the minor permit modification application indicates that the boiler was installed January -- or I'm sorry -- September of 2014. Since they were installed in September 2014, they should have been included in the original permit application and listed on the permit. There may also be a propane tank associated with the boilers.***
   - ***(2) The application for this permit revision is stamped November 16th, 2015. According to the application, the boilers were installed in September of 2014. Has the Hickman's (indiscernible) CAFO been issued a violation for not having a permit? If the violation has been issued, how many violations are there, and then were the violations issued?***
   - ***(3) The application and the paperwork talk about natural gas; however, in the paperwork for the application, one of the most electrical pages it says "propane gas." Conflict of information. So which is it, natural gas, or propane gas?***
   - ***(4) There may also be a propane tank associated with the boilers.***
   - ***(5) Is the tank underground? Where is the tank on the property? What size are the tanks? If the propane tank is over 250 gallons, do you not need a permit and a site plan? I do not see either in the technical support documents or anywhere in the paperwork.***

RESPONSE: The two propane-powered boilers should have been included in the original permit application that was received by MCAQD in September 2014. No violation has been issued to Hickman's Egg Ranch for operating these boilers. A minor modification was submitted to the Department on 11/16/2015 to add eight (8) diesel-fueled emergency generator engines to the existing twelve (12) units, and two (2) propane-fueled boilers to provide hot water for the egg washing and processing operations.

There are two aboveground propane tanks on site. The holding capacity of each is 1,000 gallons. Fuel combustion by-product emissions from the boilers have been revised to reflect the updated fuel type; from natural gas to propane. The propane tanks are exclusively for the storage of liquefied gases in unvented pressure vessels, except for emergency pressure-relief valves. As such, emissions from the tanks are considered insignificant per Rule 100 §200.63 g.(5).

Upon the completion of permit application review, MCAQD has determined that the new equipment is designed to meet the applicable air pollution control regulations.

CONTROL OFFICER

6. ***Comments were received to enquire about the role of the Control Officer.***
   Examples:
   - ***(1) I noticed going back through your information in County codes, there's a lot of reference to a Control Officer, and I have no idea who a Control Officer is.***
   - ***(2) What does "Locally enforceable" mean? How is this done?***

RESPONSE: Per MCAQD Rule 100 §200.37, the Control Officer is the executive head of the department authorized or designated to enforce air pollution regulations, the executive head of an air pollution control district established under ARS §49-473, or the designated agent. The current MCAQD Control Officer is Mr. Philip McNeely whose title is Director of MCAQD.

Locally enforceable refer to permit conditions that have no underlying federal requirements. Authority for locally enforceable conditions is derived from Maricopa County Air Pollution Control Rules and Regulations.

TITLE V VERSUS NON TITLE V STATUS /CO-LOCATION

7. ***Comments were received regarding the proximity of the two Hickman's facilities and permitting implications.***
   Examples:
   - ***(1) The two Hickman's facilities are so interconnected that, per regulation, they should be considered one facility.***
   - ***(2) The -- the -- the evidence of processing a production co-dependency between the Hickman's and Arlington sites means they should being considered as one source.***
   - ***(3) This facility is best graded as a Non-Title V facility. The obvious solution of this poorly trained agency and staff, the permit needs to be rescinded, New Source Review conducted, and a Title V permit applied for either to VOC emissions, and particulates.***
   - ***(4) Now, the operations here are located in an 8-hour non-attainment area for ozone, and yet you are ignoring your VOC emissions, and it's a major source and you should have looked at that all along.***
   - ***(5) I believe that the henhouses have emissions, and they should probably be issued a Title V permit, or at least a Non-Title V permit and I have that information on the Title V here.***
   - ***(6) A new comment I have is on the volatile organic compounds and its releases. I think there's clear evidence with the number of birds that are there, 14.3 million, that there's 103 tons of VOCs that are emitted and the agency needs to take that into account.***

RESPONSE: MCAQD has concluded that a Title V permit is not required and the conditions in the permit reflect all applicable requirements.

The following definitions are pertinent to this comment:

- SOURCE [as defined by MCAQD Rule 100 §200.101]: Any building, structure, facility, or installation that may cause or contribute to air pollution.
- STATIONARY SOURCE [as defined by MCAQD Rule 100 §200.105]: Any source that operates at a fixed location and that emits or generates regulated air pollutants.
- BUILDING, STRUCTURE, FACILITY, OR INSTALLATION [as defined by MCAQD Rule 100 §200.26]: All the pollutant emitting equipment and activities that belong to the same industrial grouping, that are located on one or more contiguous or adjacent properties, and that are under the control of the same person or persons under common control, except the activities of any vessel. Pollutant-emitting

activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987".

The primary factors used to determine whether multiple operations are considered a single source include:
1. The activities must be located on contiguous or adjacent property.
2. The activities must be under common control.
3. The activities must belong to the same industrial group.

The Hickman's Egg Ranch facilities located in Arlington and Tonopah are under common control (each is owned and operated by Hickman Family Farms), and they belong to the same industrial group (egg production). Therefore the determination of common control hinges on whether the facilities are contiguous or adjacent.

The concepts of "contiguous" and "adjacent" are two distinctly different concepts. Contiguous means to have contact with, to be touching, or to be connected throughout in an unbroken sequence. Adjacent means nearby. The key is that contiguous implies that sources are all part of the same site, pad, facility, or within the same site boundary. Adjacent implies nearness or being next to one another. Therefore, facilities that are separated only by a road, river, railroad, or other right-of-way may or may not to be considered adjacent.

Contiguous or adjacent property determinations are resolved on a case-by-case basis and may take shared equipment or physical connections between facilities into account.

The two Hickman's Egg Ranch facilities are located at:
- 41625 W Indian School Rd, Tonopah, AZ 85354
- 32425 W Salome Hwy, Arlington, AZ 85322

The locations are approximately 18 miles from one another and no physical connection exists between the businesses.

Given this information the department does not believe that the two facilities are part of the same source and therefore that they should be permitted as two separate operations.

The National Air Emissions Monitoring Study (NAEMS) was a result of an EPA compliance agreement announced on January 31, 2005 to address emissions from certain animal feeding operations, also known as AFOs. The agreements allowed for a monitoring program for barns and other buildings that house animals and lagoons or other structures that store or treat manure and other wastes.

EPA stated in the Federal Register Notice available at:
http://www3.epa.gov/airquality/agmonitoring/pdfs/afolagooneemreport2012draftappe.pdf#_ga=1.22794168.2087244103.1424728829

"H2S, PM, and VOC are all regulated under the CAA and subject to various requirements under that statute and the implementing Federal and State rules and regulations. Emissions of these pollutants come from many different areas at AFOs, including animal housing structures (e.g., barns, covered feed lots) and manure storage areas (e.g., lagoons, covered manure piles). An important issue that arises under the CAA is whether emissions from different areas at AFOs should be treated as fugitive or nonfugitive. **The Agency plans to issue regulations and/ or guidance on this issue after the conclusion of the monitoring study.**"

U.S. EPA has completed the monitoring study, but has not published any accepted emission factors, regulations or guidance to be used to determine permitting requirements for the units covered under the agreement. In the absence of a regulatory framework, MCAQD considers VOC emissions from hen houses to be fugitive and per MCAQD Rule 100 §200.60.c:

The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source.

Also, on November 2, 2015 the U.S. Supreme Court refused to review a decision from the U.S. Court of Appeals for the D.C Circuit dismissing a lawsuit to force EPA to regulate emissions from animal feeding operations (AFOs). The Iowa-based plaintiffs had demanded that EPA regulate ammonia and hydrogen sulfide emissions as criteria pollutants, and AFOs as a source category under the New Source Performance Standards program. They argued that, even without a formal endangerment finding from EPA, the prevalence of scientific evidence that ammonia, hydrogen sulfide and other AFO emissions endanger public health should trigger regulation under the Clean Air Act (CAA). The D.C. Circuit rejected that argument and affirmed that EPA retains the discretion to review the science and make its own endangerment findings. The Supreme Court's refusal to review the case, captioned Zook v. EPA (No. 15-350), 11 leaves the D.C. Circuit dismissal intact.

The decision as to whether to promulgate regulation for air emissions from AFOs remains with EPA. MCAQD will readily follow any rules or regulations issued by EPA.

PUBLIC PARTICIPATION

8. ***Comments were received regarding MCAQD public participation on the facility.***
   Example:
   - ***(1) This is the first time, I think, that this facility has even been somewhat properly noticed. Previous notice for the first permit issued for this facility was not given properly, and even them, when a public hearing was legally requested by Mr. Dan Laxon [verbatim] there was no permit hearing granted. We've been receiving these public notices for years, and oddly enough, just that one was not ever sent out, it was placed on the website, but that's not the normal procedure. You gave him the special treatment.***
   - ***(2) The proper rule citation that MCAQD should reference in Rule 220407.4, which reads: "---public hearing." Does not have any time restriction or limitations connected to permit applications or website postings when requesting a public hearing. I am hopeful that MCAQD will become more citizen-friendly by creating a public hearing request form and provide a link to the public hearing request form on MCAQD's website and the Weekly Permit Report.***

RESPONSE: Pursuant to Rule 220 §407 Public Participation, the Notice of Proposed Air Quality Permit and Public Hearing was legally sufficient. Regarding Rule 220 §407.2, a list of all permit applications received was posted on the website, at the Department's main office, and included all information required in subparts a through g. Regarding Rule 220 §407.4 through 407.6, the Department decided to hold a public hearing before any requests for hearing were made. Upon this decision, the public hearing was scheduled. Fulfilling the requirements in 407.4, the notice was published "once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located." The Department posted the Notice in three newspapers once each week for two consecutive weeks, as well as posted it on the website for 38 days beginning the first day of the comment period.

GENERAL QUALITY OF LIFE ISSUES

9. ***Comments were received regarding physical and mental health, recreation, leisure time, and social well-being.***
   Examples:
   - ***(1) Fly issue.***
   - ***(2) The dander, the little small - - they'are not really feathers. They go all over and we have to scoop them out of the pool on a daily basis.***
   - ***(3) I've heard of chickens on the road and ponds with feces in them and those kinds of things. Who do they call? It's not Air Quality maybe, but maybe it's another department, and I think***

these are important questions that these people need to know the answer to.

(4) Irrigation water being dispensed from their facility. I don't know if it is coming from their bloody lagoons or if it is being washed out of their henhouses, - - it follows along Indian School and goes back into the agriculture croplands. On two occasions I witnessed a God-awful manure smell coming from that, and I know it has to come from either the henhouses or the lagoons. That's a violation. They cannot - - they cannot put that water on the crops.

(5) Pictures of chicken slop, carcasses that were transported from Hickman's, dead, ground up sloppy, spilled out on the road. This is biohazard. It was an uncovered truck.

(6) The Tonopah community is hopeful that their comments tonight will be taken to heart and that actions will be taken as other states have done to properly regulate extremely large, concentrated feeding operations to protect the public health and the environment.

RESPONSE: MCAQD is only responsible for air pollution control. Other issues such as feathers, chicken carcasses, transportation, water and flies fall under the jurisdiction of other agencies.

ODORS

10. Numerous comments were received regarding bad odors being released from the Hickman's facility. Examples:

(1) Vomit smells, the smell of rotting meat in the air sometimes, the acrid manure smells permeate the air, particularly bad at night.

(2) There could be a putrid smell…it's an evening event. And the businesses are all suffering.

(3) Odor issue is going to intensify over the next year.

(4) People are getting sick from the odor.

(5) Can't even sit outside on the patio that smell gets so bad, especially people that's got breathing problem.

(6) We cannot leave our doors or windows open or air out - - or sit out on our patio at any time. We want - - because the stench is so bad at times, it burns our eyes and throat.

(7) Maybe you can answer their questions as to whether or not those exhaust pipes are filtered in some way to protect from the dander or protect from the odors.

RESPONSE: The influence of odors and smells on the health and comfort of individuals is difficult to evaluate. Odor sensitivity and response to odor differ from person to person. Due to the subjective nature of odor there is no commonly accepted way of quantifying or measuring odor. As noted in one of the other responses, the objective is to "limit the emission of odors." This is accomplished through reasonable measures for this type of agricultural activity.

With regard to the fans, the henhouses fans are not equipped with any type of filters to reduce or eliminate dander and odor.

11. Several comments were received regarding MCAQDs response to odor complaints and enforcement. Examples:

(1) MCAQD rarely investigates odor complaints.

(2) Outside moderating to make it more appropriate to be monitored at the source where its's being generated.

(3) No attempt to update the permit conditions for odors despite numerous complaints.

(4) Odor complaints are ongoing and, by law, should be addressed.

(5) If the county receives more than 3complaintss in a 12 months period about the poor air quality, that they have 90 days to comply to testing and since there…there have been multiple complaints filed, is there any way to know how many times they actually did the testing?

(6) For 2015, there were over 120 complaints on MCAQD and 60 to ADEQ. Odor problems and complaints are increasing as the facility continues to expand. The permits should be modified

to specify actions to investigate, comply, and enforce the odor control's air quality standards that are in that permit.

(7) …filed a complaint and Hickman told me, he said, well EPA has got them under strict guidelines that they are only allowed to check for one thing and that's all they check for. …I don't understand that and I think that the director, Mr. McNeely, would check with EPA. Maybe they would be able to review it because they need to start checking for these, other pollutants, and maybe they….they would see that they're not following the real guidelines.

(8) If they have a complaint, how can they get somebody out there to investigate the complaint when they're having it, because, you know, you come at the wrong time. The wind is blowing the wrong direction.

(9) What will it take to enforce the permit odor standard?

(10) What actions does the county take with other facilities when they have this number of complaints, especially odor complaints?

RESPONSE: MCAQD does not agree with the comment that MCAQD rarely investigates odor complaints.

Complaints come to MCAQD through its complaint system. After initial intake, MCAQD will evaluate each complaint and decide on the course of action. All complaints at Hickman's Tonopah facility are scrutinized for potential issues which may merit an onsite response. Response to complaints is determined by the type of complains that the Department receives. The strategy ensures that MCAQD staff responds to, monitor, and track and investigate complaints and enforce against non-compliance fairly and consistently across the county.

Each complaint is addressed and prioritized against other complaints throughout the county for the 6,000+ permitted facilities. Based on information relative to the complaint any or all of the following may occur:

- Site visit from an inspector;
- Contact the complainant;
- Call to the permittee whose site may be generating the cause of the complaint;
- Forward the complaint to another agency such as ADEQ;
- Record all information relative to the complaint.

Where non-compliance is found at any facility, the first objective is to correct the area of non-compliance. Depending on a number of factors, an opportunity to correct or notice of violation or fines may be issued.

12. Several comments were received regarding MCAQD failure to enforce the requirements of Rule 320. Examples:

(1) A response to odor complaints must be specified in the permit. Odor complaints are a violation of the specific conditions.

(2) Rule 320 Section 302 clearly lists:

i. fertilizer manure as things that shall be regulated to prevent odors from escaping.

ii. Odor control and it refers to manure handling and it also includes the smells that we're smelling and the offensive odors.

(3) Who is responsible for enforcing the Rule 320?

RESPONSE: MCAQD enforces Rule 320 and the permit contains all applicable requirements from the Odor Rule 320. The rule does not include requirements regarding "response to odor complaints" or regulate odors. MCAQD Rule 320 does not ensure that no odors will be present. The purpose of the rule is to "limit the emissions of odors and other gaseous air contaminants into the atmosphere", not eliminate all odors and to assist MCAQD to determine that the complaint relates to a pollutant that the MCAQD regulates. The standard required by the regulated source in this regard is to handle and process materials such as manure using "such means that they will not unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air so

as to cause or contribute to air pollution". The standard is one of "reasonableness". While there are odors coming from the manure handling, MCAQD believes the source has taken reasonable measures to control the odors.

13. ***Comments were received regarding the fact that other compounds emit odors other than hydrogen sulfide.***
    Examples:
    - ***(1) The level of pollution being allowed to freely flow from the so-called farm, in the form of ammonia, odors…noxious products.***
    - ***(2) There is more to H2S waste that cause an obnoxious odor and that is also ammonia. Ammonia is dangerous.***
    - ***(3) The EPA standards say that you also need to monitor for gases, mists, ….and othe volatile compounds.***
    - ***(4) Why don't they say that H2S is the only way that they chose to monitor?***

RESPONSE: The Clean Air Act requires EPA to set National Ambient Air Quality Standards (NAAQS) for six common air pollutants. These commonly found air pollutants (also known as "criteria pollutants") are found all over the United States. They are:

- Carbon monoxide (CO)
- Lead (Pb)
- Nitrogen dioxide (NO_x)
- Photochemical oxidants and ground-level ozone (O_3)
- Particle pollution (PM, PM_{10} and $PM_{2.5}$) and
- Sulfur oxides (SO_x)

These pollutants can be harmful to health and the environment, and cause property damage. EPA calls these pollutants "criteria" air pollutants because it sets NAAQS for them based on the human health-based and/or environmentally-based criteria (characterizations of the scientific information). These pollutants are regulated by MCAQD on behalf of EPA. Odors are considered to be a nuisance pollutant and are not regulated for health effects. As a result, the standards for nuisance pollutants are much weaker than for regulated air pollutants.

While there may be multiple odorous compounds in addition to hydrogen sulfide produced by the facility, only hydrogen sulfide is subject to quantifiable emission limits contained in Rule 320. Ammonia is not a regulated air pollutant under federal or local rules and is not regulated as such by MCAQD.

14. ***Comments were received regarding the inadequate testing and requirements on compliance demonstration for odors and H2S monitoring.***
    Examples:
    - ***(1) I don't believe that the department addressed my original comment to response to discuss field and monitoring actions.***
    - ***(2) What in the regulation determines that Permit A is not required by conducting hydrogen sulfide field measurements at the property line?***
    - ***(3) There should be a compliance plan about odor on this permit.***
    - ***(4) Hickman's do their own self testing. Does any of that go to an agency where it could be seen as public records as to how frequently they're being tested?***
    - ***(5) There seems to be no real monitoring or credibility for their actions or the enforcement of your codes.***
    - ***(6) The compliance demonstration for odors is specifically inadequate, not scientific, or protective of human health and safety. It indeed aids -- helps to aid and abet a public nuisance and public health threat, which is gross negligence on the part of the agency and its staff.***
    - ***(7) Now, the curious thing about your testing for odors, the standard that you set, which is 0.08***

ppmv, is -- is far, far above the odor threshold, which is .47 parts per billion. So when your example is the standard, even though you don't test in time -- in a timely manner, in the logical, scientific way, is this okay for this place to stink anyway? That is unacceptable. I think that's racketeering. The – and the .47 PPB was from a scientific study. Now, you -- when you look at the most literal conversions of the standard that you set, it's still 127.6 times the odor threshold and almost 8 times the inhalation reference of 80 parts per billion. So when you are -- and even though you are not doing any kind of anything scientific here, you are setting the standard that allows people to sicken and to die, and indeed they are and I think you know that, or maybe you should. So your whole approach of the nuisance over hydrogen sulfide is a sham and the threat to human health and safety here.

(8) Now, the compliance demonstration isn't scientific or sufficient either. Okay. The levels of hydrogen sulfide emanating from the lagoon and the manure handling operations in each of the barns will fluctuate widely depending on temperatures, moisture levels, time of day, and many other factors. So having to take a sample periodically in response to odor complaints at will, at night that could be at worst-case specified sites and after months of activity is vastly inadequate and not at all protective to human health and safety.

(9) Now, I have already mentioned to you the exceedances of the circumstance, and the reason that that law was passed is because when you have more than 100 pounds of ammonium or hydrogen sulfide released into the atmosphere, that's considered a public health threat. And you're aiding and abetting that then every day.

(10) You would use the modeling program to determine where the dispersion points are, and then model the worst-case scenario. Now, in your air modulating system that you set up in all of Maricopa County, that's what you did. You figure out where the worst places are, and you know how to do that, but you didn't want to do it here because the fix is in, and that's what you're up to. Now, I will include in my written copy – in my written copy, you will see far more information about how this is rated in the field of emergency planning and response. Okay? You are putting people at dire risk. Okay? Chronic exposure will kill them. The little children in this area are doomed. They will die already a premature death because of your agency's activities.

RESPONSE: Modeling isn't performed for nuisance odors. Also direct monitoring is far more accurate. Monitoring is performed and has demonstrated H2S concentrations below the standard of Rule 320. Hickman's has conducted multiple tests and MCAQD has been present for some of the monitoring events. Testing is typically conducted on all sides of the facility to capture both upwind and downwind concentrations.

The standard of 0.03 ppmv is above the minimum odor detection threshold (which is 0.01 – 1.5 according to OSHA https://www.osha.gov/SLTC/hydrogensulfide/hazards.html). But it is well below the level at which H2S becomes more offensive (3 – 5 ppm according to the same source). The standard is protective of public health in that it is well below the threshold of negative health effects, which occur at 2 – 5 ppm for chronic exposure.

The standards for odors are indeed not scientific. There is no regulatory standard for odors (other than H2S) because they are regulated as a nuisance, not as an air contaminant. At this juncture, Hickman's has consistently demonstrated compliance with the H2S standard.

HENHOUSES

15. Comments were received regarding henhouses' capacity and emissions, and nutrients for the chickens. Examples:

(1) We've got 3.1 million chickens with 10 henhouses occupied. They have number 11 and 12 built.

(2) So will the nutrient management plan have to be filled before the change of the use for the

cage-free buildings, or will anything be filed since it's not done in the first year nutrient plan management plan?

(3) How many chickens will be in the cage-free buildings? Do they have to do any additional permitting?

(4) The department makes a statement that any sourcing review is not triggered, but provides no information required by ADEQ guidance on how to comply with Arizona State Hazardous Air Pollution Program, Section 2, Developing Emission Estimates, but instead, the department takes credit for the occasional monitoring of the facility's property line during non-odor remittance. So how does the department know that putative emissions of operation do not trigger the danger source threshold? Please expose the data and demonstrate our conclusion and then propose an amendment technical support document with the data.

RESPONSE: MCAQD is essentially permitting the boilers and emergency engines. This equipment is not directly impacted by the number of chickens present or whether they are cage-free. No evidence has been provided by the source, the commenters or independent research by MCAQD that would identify any potential hazardous air pollutants approaching regulatory thresholds.