Maricopa County

Office of Ombudsman
1001 North Central Avenue
Phoenix, Arizona 85004
602-506-6707 – phone

August 28, 2015

Daniel E. Blackson
42211 W. Salome Highway
Tonopah, AZ 85354

Subject: Maricopa County Air Quality Department Permit: #140062; Hickman's Egg Ranch Inc., 41625 W. Indian School Road, Tonopah, Arizona

Dear Mr. Blackson:

This letter is in response to your correspondence dated August 6, 2015 and received August 12, 2015 concerning Maricopa County Air Quality Department (MCAQD) Permit: #140062; Hickman's Egg Ranch Inc., 41625 W. Indian School Road, Tonopah, Arizona.

You requested a response to your comments concerning the Air Quality Permit, expressed concern that your comments would be casually dismissed, and stated that your request for a public hearing was not honored. You also requested that MCAQD research current farm environmental and regulatory issues and to network with other states and counties on CAFO related issues.

I forwarded your comments on the Air Quality Permit to the MCAQD Permitting Division. They carefully evaluated each of your comments and prepared the attached response.

Both MCAQD and I have communicated to you (please see the attached emails) in past correspondence concerning your request for a public hearing. MCAQD did not ignore your request, however, when you requested a public hearing in March 2014, there was not a stationary source (Non-Title V) permit application pending for which a hearing could be granted. At the time of your request, there was only a dust control permit that had been issued for which a public notice or hearing is not required. Therefore, MCAQD notified you via e-mail (attached) that your hearing request was not granted. The Hickman Egg Ranch Non-Title V permit application was submitted in September 2014. MCAQD followed the regulatory procedures by posting the notice of the permit application on the MCAQD website per Rule 220 §407.2. MCAQD did not receive a hearing request for this application.

Thank you for your recommendation regarding the coordination of efforts among agencies on CAFO issues. On that front, MCAQD has been working with Arizona Department of Environmental Quality (ADEQ) on odor complaints regarding the

Tonopah and Arlington facilities since both agencies have authority to regulate odors. However, agricultural activities are regulated by the state, ADEQ, through an Agricultural General Permit. The general permit requires that farms adopt agricultural best management practices (BMPs) for the management and control of particulate emissions. Please refer to the attached comments for a more detailed explanation.

If you have any questions regarding this letter or the attached responses, please contact me at (602) 506-6707.

Sincerely,

Hether Krause

Hether Krause
Ombudsman

Attachments
cc: Eric Massey, Arizona Department of Environmental Quality
Maeve Clancy, Environmental Protection Agency

1. ***Comment: Hickman's Tonopah egg factory has bulk materials handled, stored, and/or transported at their facility and Air Quality Permit to Operate and/or Construct #140062 does not properly establish permit conditions and requirements.***

   Response: A.R.S. § 49-457.O. preempts Maricopa County regulation of PM-10 particulate matter emissions produced by regulated agricultural activities.

   Regulated agricultural activities are defined as (A.R.S. §49-457.P.5(a)):

   Commercial farming practices that may produce PM-10 particulate emissions within the regulated area, including activities of a dairy, a beef cattle feedlot, a poultry facility and a swine facility.

   Thus, regulated agricultural activities are not subject to MCAQD rules or stationary air permitting requirements.

   However, agricultural activities are regulated by the state Arizona Department of Environmental Quality (ADEQ) through an Agricultural General Permit. The general permit requires that farms adopt agricultural best management practices (BMPs) for the management and control of particulate emissions.

2. ***Comment: Sampling for only hydrogen sulfide for chicken manure is inadequate.***

   Response: Maricopa County Air Pollution Control Rule 320 describes the MCAQD authority to limit the emissions of odors and other gaseous contaminants to the atmosphere. While there may be multiple odorous compounds in addition to hydrogen sulfide produced by a given poultry facility, only hydrogen sulfide is subject to emission limits.

   Rule 320 §304 limits emissions of hydrogen sulfide (H_2S) to concentrations of no more than 0.03 parts per million by volume for any averaging period of 30 minutes or more at any occupied place beyond the premises on which the source is located. To demonstrate compliance with this standard the facility is required to perform H_2S monitoring. To date, no exceedance of the standard has been observed. In our current rules, there are no quantitative standards for any of the compounds noted in the comments provided other than H_2S.

   With regards to the material containment requirements of Rule 320 §302 and Permit Condition 1.a, the department has concluded that no materials are being allowed to unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air. The operations at Hickman's are those that would typically occur at any facility of this type and MCAQD believes the source is taking reasonable measures to contain odors.

3. ***Comment: Complaint driven monitoring for hydrogen sulfide lacks clarity and is inadequate to demonstrate compliance.***

   Response: Due to the number of odor complaints received regarding the Tonopah facility, MCAQD directed Hickman's to conduct Hydrogen Sulfide (H_2S) monitoring in accordance with their Air Quality Permit. On February 11, 2015, MCAQD staff observed the facility's monitoring technique and verified that Hickman's monitoring shows hydrogen sulfide concentrations below permit limits. The facility is currently performing H_2S monitoring on a monthly basis. On the evening of July 9, 2015 MCAQD staff conducted its own monitoring downwind of the facility. MCAQD monitoring did not detect measurable concentrations of H_2S.

   On August 13, 2015 MCAQD also conducted "side by side" H_2S monitoring at the same time and location as Hickman facility staff to compare results. Hydrogen sulfide concentrations measured by MCAQD equipment were non-detect while Hickman's equipment yielded less than 0.008 parts per million (ppm) which is below the permit limit of 0.03 ppm.

   The monitoring conducted to date indicates that H_2S is not currently a source of odors at the facility and that permit conditions are being met. Additional monitoring will be performed to ensure continued compliance with permit conditions.

4. ***Comment: The Compliance Plan singles out a particular gas, hydrogen sulfide, rather than enforcing the odor control standard.***

   Response: MCAQD has not observed that materials are being allowed to unreasonably evaporate, leak, escape or be otherwise discharged into the ambient air. The operations at Hickman's are those that would typically occur at any facility of this type and MCAQD believes the source is taking reasonable measures to contain odors. See also responses to Comments #2 and #3.

5. ***Comment: Hauling of chicken manure as bulk material is not identified in Category D. Bulk Material Handling of the application for Dust Control Permit E140170 or subsequent Dust Control Plan Changes.***

   Response: A.R.S. § 49-457.O. preempts Maricopa County regulation of PM-10 particulate matter emissions produced by regulated agricultural activities.

   As a result, Rule 310.01 does not apply to this facility. See also response to Comment #1.

6. ***Comment: Egg and manure production is a process industry that generates particulate matter.***

   Response: Particulate matter generated by a poultry facility is regulated by ADEQ through the implementation of agricultural best management practices as established by A.R.S. §49-457. Agricultural BMPs are established to reduce PM10 particulate emissions from the activities of a dairy, a beef cattle feedlot, a poultry facility or a swine facility, including practices relating to the following: unpaved access connections, unpaved roads or feed lanes, animal waste handling and transporting, arenas, corrals and pens. See also response to Comment #1.

7. ***Comment: If improperly dried/composted, manure fires will occur.***

   Response: It is correctly noted that open burning is prohibited by Rule 314. While not expressly contained in the permit, the facility is still subject to the requirements of the rule. As for the limits on storage time, temperature and moisture content, control of these parameters is under the authority of ADEQ.

8. ***Comment: The Tonopah Egg Factory is a stationary source that emits air pollutants and should have had a New Source Review prior to construction.***

   Response: The standards for New Source Review are established in Rule 240. The fugitive emissions from the operation do not trigger the major source thresholds included in the rule. Numerous testing events have confirmed that the hydrogen sulfide concentration does not exceed the standard. New Source Review is not triggered with the current equipment and poultry operations.

ATTACHMENTS:

Richard Sumner email dated 3/28/14

Hether Krause email dated 2/20/15

Richard Sumner - AQDX

From: Richard Sumner - AQDX
Sent: Friday, March 28, 2014 3:13 PM
To: 'blackson.daniel@yahoo.com'
Cc: Todd Martin - AQDX; Scott Treece - AQDX; Wyatt Sterusky - AQDX
Subject: RE: Hickman's Tonopah Egg Facility

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Blackson,

We have received your email below requesting a public hearing regarding the Hickman's Tonopah Egg Facility. The facility has applied for and received a dust control permit. However, there are no public notice or hearing provisions regarding a dust permit. At this time the facility has not applied for any other air permit for which a public notice or hearing is required. Therefore, we have no regulatory basis for which to hold a hearing and we must deny your request.

Should you need additional information, please feel free to contact us.

Richard A. Sumner, PE
Permitting Division Manager
Maricopa County Air Quality Department
1001 North Central Avenue, Suite 125
Phoenix, AZ 85004
Phone: 602-506-1842
Email: RichardSumner@mail.maricopa.gov

-----Original Message-----
From: Daniel Blackson [mailto:blackson.daniel@yahoo.com]
Sent: Wednesday, March 26, 2014 5:32 PM
To: Todd Martin - AQDX; Scott Treece - AQDX
Cc: Wyatt Sterusky - AQDX; Howard Shanker; Dan Blackson
Subject: Hickman's Tonopah Egg Facility

Hickman's have started construction on an egg facility in Tonopah, AZ. I am requesting a public hearing prior to issuing the air quality permit. There will eventually be 8 million chickens at the facility so I don't know if it will be a Title V permit or a Non-Title V permit. The possible addresses for the facility are 41625 W. Indian School Road (Parcel # 506-34-045A) or 41701 W. Indian School Road (Parcel # 506-34-045B).

Thanks,
Dan Blackson

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Hether Krause - ENVX

From: Hether Krause - ENVX
Sent: Friday, February 20, 2015 4:46 PM
To: Daniel Blackson (blackson.daniel@yahoo.com)
Subject: Hickman's Egg Ranch, Inc.

Mr. Blackson,

Thank you for the conversation and emails regarding your concerns with Hickman's Egg Ranch, Inc. (Non-Title V Permit 140062). I have provided information related to each of your concerns.

Regarding your concerns with the 9/16/14 arrival of the chickens prior to the issuance of the Non-Title V permit:

As you may know, Hickman's Egg Ranch, Inc. submitted a Non-Title V Permit application on 9/30/14 to the Air Quality Department (Department) for emergency generators at their Tonopah facility. The Department subsequently issued the Non-Title V Permit on 11/17/14. It was determined during the first inspection conducted on 11/20/14 that the emergency generators had been operating since 10/16/14. Therefore, NOV # 732995 was issued pursuant to Regulation II **Rule 220 § 301**: Except as otherwise provided in these rules, no person shall commence construction of, operate, or make a modification to any source subject to regulation under these rules, without first obtaining a permit or permit revision from the Control Officer.

Regarding your concerns with the Public Comment Period not being addressed:

After review of the records, I found several emails to the Department (i.e. 3/26/14, 7/31/14) where you were concerned and referenced a public hearing or public comment period prior to issuance of the Air Quality Permit (Non-Title V Permit). Unfortunately, requests for public comment/hearings are not accepted until after an application is received by the Department which occurred later that year in September. Rule 220 § 407.2 references the Department's procedures for posting these applications on the internet once received.

However, please note that Mr. Sumner indicates in his email below that you are still able to provide comments regarding the permitted activity.

RE: Hickman's Tonopah Egg Facility
Richard Sumner - AQDX
You replied to this message on 1/22/15 4:46 PM.
Sent: Thu 1/22/15 8:46 AM
To: Daniel Blackson
Cc: Hether Krause - ENVX
Message: RE: Hickman's Tonopah Egg Facility (12 KB)

Mr. Blackson,

You are correct regarding the March 26 email noted below and I have attached my March 28, 2014 response describing why we could not conduct a public hearing. Please let me know if you are interested in submitting comments on the recently issued non-title V permit. In addition, you may also contact our Ombudsman, Hether Krause, at 602.506.6707 or via email hkrause@mail.maricopa.gov.

Richard A. Sumner, PE
Permitting Division Manager
Maricopa County Air Quality Department
1001 North Central Avenue, Suite 125
Phoenix, AZ 85004
Phone: 602-506-1842
Email: RichardSumner@mail.maricopa.gov

Regarding your concerns with new generator's being installed without proper permitting:

Please note that 12 emergency generators were included on the Non-Title V Permit application. At the time of last inspection (11/20/14), there were a total of 10 emergency generators on site, 8 of which were installed. Please let me know if you are aware of any other issues related to this topic.

Regarding your concerns with odors:

Per Permit Condition #2 of the issued Non-Title V Permit, Hickman's Egg Ranch, Inc. is required to complete a Compliance Demonstration by conducting a test to monitor hydrogen sulfide. It is my understanding that Hickman's Egg Ranch, Inc. has conducted the initial hydrogen sulfide test and there will be an additional test, 6 months after the initial determination. Hickman's Egg Ranch, Inc. is required to submit the hydrogen sulfide test results to the Department. If you are interested in reviewing the hydrogen sulfide test results please submit a public records request.

Regarding your concern with the exhaust fans utilized within the lay houses:

The exhaust fans are not within the scope of the Air Quality Department; any agricultural odor complaints received by the Department are referred to ADEQ.

Please let me know if you have any questions regarding the response listed above as I would be happy to clarify or revisit.

Sincerely,

Hether Krause, R.S., CPM
Ombudsman | Citizen Advocate
Air Quality & Environmental Services Departments
Maricopa County

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