



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

COMMENT-RESPONSE DOCUMENT

**CLEVELAND PORK CAFO
NPDES PERMIT APPLICATION
APPROVED / PA0233544
CLEVELAND TOWNSHIP, COLUMBIA COUNTY**

PUBLIC COMMENT PERIOD DATES

The notice was published in the PA Bulletin on Saturday, November 16, 2013. [43 Pa.B. 6808]
The public comment period expired on Saturday, December 16, 2013.

PUBLIC MEETING DATE

A public meeting was held on Monday, December 16, 2013 at 6:30 pm at the Elysburg Fire Department,
One East Mill Street, Elysburg, PA 17824.

PUBLIC HEARING DATE

The notice was published in the PA Bulletin on Saturday, Saturday, November 9, 2013. [43 Pa.B. 6680]
The public hearing was held on Monday, December 16, 2013 at 7:59 pm at the Elysburg Fire Department,
One East Mill Street, Elysburg, PA 17824.

MARCH 5, 2014

PROJECT DESCRIPTION

On September 27, 2013, Cleveland Pork CAFO submitted an individual NPDES CAFO application to the Pennsylvania Department of Environmental Protection (Department or PA DEP) for the existing finishing swine operation and associated underbarn manure storage site located in Cleveland Township, Columbia County. The facility consists of an existing swine barn that houses 4,360 (560.23 AEUs) swine with an underbarn manure pit (458'x80'x6') having a total storage capacity of 1,486,000 gallons. This facility is located in the Mugser Run (HQ-CWF) watershed. The permittee previously submitted a permit renewal application on June 26, 2013 which was after the permit expiration date (June 2, 2013). The permittee did not submit a renewal application of the existing NPDES CAFO Individual Permit before the expiration date. Subsequently, a new permit application was required for an individual CAFO NPDES.

On November 16, 2013, the Department published in *The Pennsylvania Bulletin* its intent to issue NPDES Permit PA0233544 initiating a 30-day public comment period. Several requests for a hearing/meeting had been received, therefore based on the demonstrated interest and concern from the local community, the Department decided to conduct a public hearing/meeting. The Department's notification of a public hearing/meeting was published on Saturday, November 9, 2013. The hearing on the proposed permit was held at the Elysburg Fire Department on Monday, December 16, 2013. Additionally, 25 Pa Code § 127.49(c) provides 10 additional days to submit testimony for persons unable to attend the hearing. The Department accepted written comment until the close of business on Thursday, December 26, 2013.

This document summarizes, as succinctly as possible, the public testimony given at the public hearing along with written comments received via letter during the public comment period. The Department's responses to the comments are focused on concerns expressed for the proposed issuance of the NPDES permit for this facility only. The summaries of the comments are not intended to be a complete description of each individual's comment or comments, but rather provide the context for the Department's response. Each comment is available in its entirety at the DEP Northcentral Regional Office, and may be accessed by any person wishing to review those comments by scheduling a file review with the Department.

LIST OF COMMENTATORS

Individuals who testified or submitted written comments during the public hearing are as follows:

Number	Commentator / Company
1	Virginia Dall / Citizen
2	Johanna Lucid / Citizen
3	Marianne Zenyuch / Citizen
4	Tom Lucid / Citizen
5	Barbara Freeman / Citizen
6	Maria Payan / Citizen

Individuals who submitted written comments during the public comment period are as follows:

Number	Commentator
7	Joel Blanco-Gonzalez / US EPA Region III
8	Johanna T. Lucid & Thomas Lucid / Citizens
9	Linda L. Woodward / Citizen
10	Barbara Freeman / Citizen
11	Marianne Zenyuch / Citizen
12	Dan Knoebel / Citizen

COMMENTS AND RESPONSES

Throughout this document, the numbers listed above will be used to identify the individual who made the comment. The number will be listed in parentheses following the comment. DEP's response will be listed following the comment.

Public Hearing Comments

1. **Comment:** A copy of Ms. Dall's comments can be found in the transcripts from the public hearing. In summary, the comments request that the permit not be issued due to the outstanding compliance issues and the suggestion that her well may have been impacted by a manure application. (1)

Response: Upon conducting the review of the application, the Department, in accordance with 25 PA Code §91.26, has taken notice of the failure of the applicant to comply with prior requirements or orders. Currently the permittee is complying with prior requirements and orders. Furthermore, the Department believes that it is in the best interest of the environment and the community that this facility is appropriately regulated under an individual NPDES permit. It is a possibility that if this permit were not issued, the permittee could adjust his operation in a manner such that an NPDES permit would not be required. This could result in the less oversight by the Department. Regardless of this opinion, if the permittee was not in compliance at the time the Department was to make the final decision; the permit would not be issued.

At this time, the Department is not aware of any impacts to Ms. Dall's private well that is attributable to the Cleveland Pork operation.

2. **Comment:** A copy of Ms. Lucid's comments can be found in the transcripts from the public hearing. In summary, the comments pertained to the amount water withdrawn from the water table to supply the facility and how it could depress the water table, the possible of contamination of that drinking water.

There are discrepancies in the NMP, such as incorrect acreage listed and the spreading of manure to areas not listed.

Comment on the documented compliance issues with the Cleveland Pork operation. It was requested that the permit be denied. (2)

Response: An NPDES permit does not regulate or control the amount of groundwater that is withdrawn or utilized for this facility. It is specifically noted that the Department currently requires the established setbacks and Best Management Practices to be utilized so as to afford a level of protection to surface and groundwater.

It was determined that the NMP was not up to date. The Department has required the permittee to update the NMP to resolve these discrepancies and accurately reflect available acreage and manure application areas.

In regard to the compliance issues and the issuance of the permit, see Department response (1) above.

3. **Comment:** A copy of Ms. Zenyuch's comments can be found in the transcripts from the public hearing. In summary, the comments referenced 25 PA Code §91.26 which states that "When considering applications coming before it, the Department will take notice of the failure of the applicant to comply with any of its prior requirements or orders respecting sewerage or industrial waste disposal and will consider the application favorably only if, in its opinion, there are sufficient

extenuating reasons for the failure or if the public interest as affected by the proposed project warrants favorable action, in which case the Department will include suitable conditions respecting compliance with its unfulfilled requirements in any permit which it may authorize." The comment noted that the facility has had compliance issues and reasonable extenuating reasons do not exist. It was requested that this be taken into consideration during the review and deny the permit. (3)

Response: In regard to the compliance issues and the issuance of the permit, see Department response (1) above.

4. **Comment:** A copy of Mr. Lucid's comments can be found in the transcripts from the public hearing. In summary, the comments noted the recent MRSA articles in the newspaper, expressed his concerns for air quality, noted his current health issues, noted compliance issues, and requested that the permit not be issued. (4)

Response: The Department is aware of articles related to the incidence of MRSA infections and the field application of swine manure. At this time, the NPDES permit provides for the responsible application of, among other things, manure application.

The NPDES permit regulates a CAFO in a manner so as to provide for the protection of water. It is outside of the scope of this permit to regulate air quality concerns. However, the Department will ask the permittee to voluntarily provide you with notification of manure applications in your vicinity as well as a voluntary incorporation of the manure within 24-hours of applying the manure.

In regard to the compliance issues and the issuance of the permit, see Department response (1) above.

5. **Comment:** A copy of Ms. Freeman's comments can be found in the transcripts from the public hearing. In summary, the comments request that the permit be denied due to the outstanding compliance issues. These comments referenced failure to file quarterly and annual reports, discrepancies in the most recent NMP, and issues with accurately and timely reporting of manure applications. (5)

Response: The Department has required that the permittee update the NMP to resolve these discrepancies and accurately reflect available acreage and manure application areas, see Department response to (2) above.

In regards to the compliance issues and the issuance of the permit, see Department response (1) above.

6. **Comment:** A copy of Ms. Payan's comments can be found in the transcripts from the public hearing. In summary, the comments noted the numerous compliance issues and requested that the permit be denied. (6)

Response: In regard to the compliance issues and the issuance of the permit, see Department response (1) above.

Public Comment Period Comments

7. **Comment:** Mr. Blanco Gonzalez of the EPA commented: The Fact Sheet for the NPDES permit explains that mortality is composted, and that the composted material is then land applied separately from the liquid manure. It is our understanding that sufficient information was not provided for us to determine if these samples are representative of the manure and compost produced on this facility, pursuant to 40 CFR §§ 122.41(j)¹ and 122.42(e)(5)(i)(B)². The Pennsylvania's Nutrient Management Act Program Technical Manual explains that small

quantities of mortality compost (less than 5 tons of poultry or 25 tons of non-poultry mortality compost) do not need to be included in Appendix 3. Therefore, for larger quantities of mortality compost, results from the laboratory analysis should be included in Appendix 3, and if land applied, details should be included in the Nutrient Balance Sheet. Please clarify, justify, and document whether the manure samples are in compliance with the regulations above. (7)

Response: The NMP lists both mortality composting and a mortality incinerator. It was relayed by the applicant's consultant that composting of mortalities was the only means being utilized to deal with mortalities. The Department has since learned that an incinerator is actually in use. It should be noted that the NMP noted the use of both. The fact sheet and public comment response document will be amended to reflect this. This should sufficiently satisfy the applicable regulations.

8. **Comment:** Mr. and Mrs. Lucid provided the Department with written comments, dated December 16, 2013, which echoed the verbal testimony at the hearing. (8)

Response: See Department response (4) above.

9. **Comment:** Ms. Woodward provided the Department with a letter, dated December 18, 2013, in which three comments / requests were presented. The first comment requested that the permittee perform baseline well testing on all properties within a 2,500' radius of all manure application areas. It is also requested that this be followed up with a secondary test after a manure application to ensure that there is no contamination. The next comment requested that the permittee inject or till the manure directly after application to help eliminate malodors. The final recommendation requested that the Department require the permittee to provide annual report to the township, in addition to the one that is provided to the Department, for their review. (9)

Response: The Department cannot require the permittee to conduct well testing within the manure application areas. As noted in the response to comment (2); the Department currently requires established setbacks and Best Management Practices to be utilized so as to afford a level of protection to surface and groundwater.

The Department cannot stipulate manure incorporation techniques that vary from the Pennsylvania Technical Guide. Incorporation, as mentioned above is required on crop management units having less than 25% plant cover or crop residue at the time of manure application. As noted in the response to comment (4), the Department will ask the permittee to voluntarily incorporate manure within 24-hours of application.

The annual reports are public information in which the township and the general public have the right to review. These documents must be submitted to the Department by February 15th of each year. It is recommended that a file review be conducted to review or obtain these documents given that they are readily available.

10. **Comment:** Ms. Freeman provide the Department with a letter dated December 17, 2013, that referenced the failure to file quarterly and annual reports, listed discrepancies in the most recent NMP, and listed issues with accurate and timely reporting of manure applications. (10)

Response: The Department has taken these statements into consideration and has required, and received a revised NMP. In regard to the compliance issues and the issuance of the permit, see Department response (1) above.

11. **Comment:** Ms. Zenyuch provided the Department with a letter, dated December 20, 2013, which questioned the nutrient balance sheets, acreage available for manure application, annual report and manure application agreement deficiencies in the NMP. (11)

Response: The Department has taken these statements into consideration and has required a revised NMP.

12. **Comment:** Mr. Knoebel provided the Department with a letter on November 19, 2013. This letter commended the facility. No other relevant comments were contained in the letter. (12)

Response: No comment required from the Department.

FINAL DETERMINATION

The comments submitted during the public comment period have been reviewed and are appropriately addressed in this document. The Department appreciates the many thoughtful comments, which covered a wide variety of aspects related to the Cleveland Pork CAFO. The Department hopes the above information addresses the commentators' concerns. It is the Department's determination that, after consideration of all comments received; NPDES Permit PA0233544 will be issued to Cleveland Pork CAFO on March 5, 2014. The effective date of the permit is April 1, 2014 with an expiration date of March 31, 2019.

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