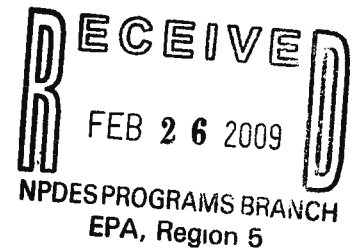


US EPA ARCHIVE DOCUMENT

**ILLINOIS CITIZENS FOR CLEAN AIR AND WATER/
ENVIRONMENTAL INTEGRITY PROJECT**

February 20, 2009

Via certified mail and email
Tinka Hyde, Director
Water Division, Region 5
U.S. Environmental Protection Agency
77 West Jackson Boulevard: W-15J
Chicago, IL 60604-3507
hyde.tinka@epa.gov



RE: Supplement to the Petition to Withdraw the Illinois NPDES Program

Dear Director Hyde:

This letter is intended to supplement evidence for the Illinois Citizens for Clean Air & Water (ICCAW)/Environmental Integrity Project (EIP) Petition for Withdrawal of the National Pollutant Discharge Elimination System (NPDES) Program Delegation from the State of Illinois, which was filed on March 27, 2008. We appreciate the opportunity to provide the U.S. EPA with this additional information which has come to our attention subsequent to filing the original Petition.

We direct your attention to ongoing official neglect by the State of Illinois to adequately administer the Federal Clean Water Act's (CWA) NPDES program for Concentrated Animal Feeding Operations (CAFOs). This official neglect is evidenced by continued water pollution and fish-kills caused by unregulated discharges from CAFOs.

For example, this past April, the Dennis Anderson Swine Farm in Bureau County illegally discharged 750,000 gallons of waste into the Bureau Creek, killing untold numbers of fish. Additionally, CAFO discharges have caused at least three separate fish-kills in Henderson County alone in the past year. *See* Bergin, Nick, Burlington Iowa Hawkeye (September 1, 2008), *available at*: <<http://www.thehawkeye.com>>. In August, a discharge from SF Ventures, LLC, a newly constructed 10,000-head hog facility, resulted in a fish-kill and the contamination of the Deep Run Creek, a tributary to the Mississippi.

In addition to continued pollution events, there are concerns that the State of Illinois is allowing the operation of many new and expanding CAFOs that do not meet CWA NPDES standards. For example, a number of newly constructed facilities are suspected to have the same design as the facility that caused the fish-kill in the Deep Run Creek. At least three additional facilities under SF Ventures LLC ownership have been identified as having the same "obvious design flaw" in their manure holding ponds. *See* Illinois Attorney General, Press Release (October 3, 2008), *available at*: <<http://www.illinoisattorneygeneral.gov>>. This has raised concerns that their manure ponds could soon fail in a similar manner. There may also be a number of additional new facilities of the same design now in operation in Henderson County under different ownership. These facilities propose to discharge because they lack sufficient containment to comply with CWA and NPDES program requirements.

Once a CAFO has a discharge, or a proposed discharge, it is required to have an NPDES permit as a matter of law. *See* 33 U.S.C. §§ 1311(a), 1342(a), *see also* 40 C.F.R. § 122.21(a). This is an obligation under the CWA's existing 30+ year old requirements, as well as under revised NPDES standards for CAFOs. *Id.*, *see also* 73 Fed. Reg. 70418 at 70480 (November 20, 2008) (to be codified at 40 C.F.R. § 122.23 (d) (1)). Despite this clear mandate, it is suspected that none of the above described CAFOs are operating with required NPDES permits. This includes CAFOs that discharge, as well as those with inadequate designs that propose to discharge.

We assert that continued pollution events are the direct result of the Illinois Environmental Protection Agency's (IEPA) failure to exercise proper NPDES regulatory oversight over CAFOs. This problem has been exacerbated by the IEPA's ongoing neglect to adequately respond to citizen concerns. The Agency has historically neglected to address CAFOs which can discharge, waiting instead until they do discharge and cause a fish-kill or other pollution incident. The Agency also fails to adequately respond to citizen complaints regarding discharging facilities. Specific instances of these are discussed below.

The IEPA's Failure to Exercise Proper Regulatory Oversight over CAFOs

The IEPA continues to neglect its responsibilities under the CWA by not exercising proper regulatory oversight over CAFOs. Even since the filing of the ICCAW/EIP Petition on March 27, 2008, the Agency has failed to make a comprehensive survey of livestock facilities in Illinois to determine which ones are subject to CWA NPDES requirements. In fact, there appears to be no standard in place whereby the IEPA reviews the siting and design of new and expanding facilities to determine if they require NPDES permits. The Agency has also failed to issue permits to those facilities that require them. As a result, virtually all existing and new CAFOs in Illinois are unregulated. This problem has been exacerbated by the Agency's continued neglect to adequately respond to citizen complaints and concerns. The result has been continued illegal discharges and increased water pollution from CAFOs.

Failure by the IEPA to Adequately Respond to Citizen Concerns

The IEPA has continually failed to adequately respond to citizen concerns. This is evidenced by: 1) the Agency's neglect to meaningfully evaluate "proposed discharges" from CAFOs in response to citizen requests, and 2) the Agency's neglect in adequately responding to citizen complaints regarding "discharging" facilities.

Neglect to Meaningfully Evaluate "Proposed Discharges" in Response to Citizen Requests

The IEPA has neglected to meaningfully evaluate "proposed discharges" from CAFOs in response to citizen requests. The proposed Traditions South Dairy of Jo Daviess County is a case in point. As noted by Helping Others Maintain Environmental Standards (HOMES) in their letter submitted to EPA on November 11, 2008, the Illinois Department of Agriculture (IDOA) approved construction plans for the 5,000+ head dairy facility despite serious

concerns over the risks it posed to surface and related ground water. Sam Panno, a senior geochemist and groundwater geology expert with the Illinois State Geological Survey, as well as many other experts, warned of the risks posed by the facility. Of significant concern is: 1) the location of 40+ acres of clay lined earthen waste holding ponds (with an anticipated leakage rate of 400 to 600 gallons per acre per day when half full) atop a spring fed creek leading to waters of the United States, and 2) the location of the facility in a sensitive karst aquifer with a direct hydrological connection to adjacent surface waters.

Although Illinois law provides certain environmental safeguards for the siting of large-scale livestock facilities in such locations, the IDOA approved plans for the facility, which failed to meet these standards:

- In violation of 35 Ill. Adm. Code 501.402 (a), the proposed facility contains a stream within its boundaries;
- In violation of 35 Ill. Adm. Code 506.312 (a), the facility is not designed to prevent seepage into groundwater, and
- In violation of 35 Ill. Adm. Code 506.312 (b), the facility is not designed to utilize a rigid material such as concrete or steel.

While the IDOA failed to consider these apparent violations in issuing the construction permit for the facility, the IEPA has the responsibility “to *prevent* (emphasis added) pollution caused by failure to plan the construction, location and operation of [livestock operations] with regard to proper environmental safeguards.” Ill. Admin. Code tit. 35 § 501.102(e) (1991). Despite this responsibility, the IEPA has failed to adequately respond to, and appropriately deal with, concerns relating to the water pollution risks posed by the facility.

For example, HOMES member, Ken Turner, submitted a series of requests to the IEPA asking that the facility be required to apply for an NPDES permit on April 30, 2008, May 11, 2008, and June 14, 2008. *See* Exhibit A, parts 1-3 (attached). The IEPA denied his initial request on May 5, 2008, stating that the Agency was awaiting clarity on the federal level as to which CAFOs should be required to have NPDES permits in response to the Second Circuit’s decision in *Waterkeeper Alliance, Inc., v. EPA*, 399 F.3d 486 (2d Cir. 2005). *See* Exhibit B (attached). It was further stated that the Agency was focusing its resources on discharging facilities discovered mainly through complaint investigations. *Id.*

The IEPA’s position that it must await clarity on the federal level holds little weight. Applicable 30+ year old permitting requirements, which require dischargers and “proposed” dischargers to apply for NPDES permits, have never been called into question, and have remained in effect. *See* 40 C.F.R. § 122.21(a). Furthermore, the *Waterkeeper* Court pointed out that there is “ample reason to consider imposing a mandatory duty to apply upon Large CAFOs...to effectively regulate water pollution...given that they are important contributors and that they have, historically at least, improperly tried to circumvent the permitting process.” *Waterkeeper*, at footnote 22.

Regardless of the IEPA's reasoning for denying the requests, it appears that the IEPA's determination to not require an NPDES permit was made absent any meaningful evaluation of the plans for the proposed facility. According to an IEPA response to a Freedom of Information Act (FOIA) request, submitted by HOMES member, Bern Colleran, on August 1, 2008, the Agency had no records or documents whatsoever on file relating to the Traditions South proposal. *See* Exhibit C, parts 1-5 (attached).

Assuming that the IEPA wasn't improperly withholding information from the public in violation of the FOIA, the absence of any records, documents, or correspondence relating to the facility, indicates that the determination *not* to require Traditions South to apply for an NPDES permit was a decision made without even a basic factual investigation of the proposal.

The IEPA's determination not to require an NPDES permit application from Traditions South should be considered in light of the U.S. EPA's newly issued 2008 CAFO Rule enacted in response to the *Waterkeeper* decision. *See* 73 Fed. Reg. 70418 at 70480 (November 20, 2008) (to be codified at 40 C.F.R. § 122.23 (d)(1)). The Rule provides additional clarification as to when a CAFO "proposes to discharge" and should be required to apply for an NPDES permit. This includes when a CAFO is not "designed" or "constructed" for zero discharge. *Id.*, at 70480-01.

In applying this standard, the IEPA should be evaluating construction and design plans for CAFOs to evaluate whether or not they should be required to apply for NPDES permits. Thus, there appears to be little justification for the IEPA's failure to review the proposed construction site and design plans for Traditions South in response to citizen concerns.

This account demonstrates Illinois' failure to exercise proper regulatory oversight over CAFOs under the NPDES program, which has been exacerbated by the IEPA's failure to adequately respond to citizen concerns. Although the IEPA should be evaluating proposed new and expanding facilities to determine if they require NPDES permits, the Agency has refused to do this in at least one case without even a basic factual investigation of the facility.

It is unreasonable for the IEPA to ignore concerns by the public and to wait until catastrophic damage occurs before evaluating the necessity of a discharge permit. By only pursuing enforcement actions for "discharging" facilities, the IEPA is doing nothing to "prevent" water pollution, the stated purpose of both Illinois' federally approved NPDES implementing regulations and the CWA. Further, by not requiring NPDES permit applications from "proposed dischargers," the public has limited access to important permit information such as nutrient management plans to ensure the CWA's effluent limitation guidelines are met.

*Neglect to Adequately Respond to
Citizen Complaints Regarding "Discharging" Facilities*

The IEPA's failure to adequately respond to citizen concerns is also evidenced by the Agency's neglect to appropriately respond to citizen complaints regarding "discharging"

facilities. Although the IEPA has stated that it is “focusing its resources on discharging CAFOs discovered mainly through complaint investigations” (*See Exhibit B*), this does not appear to be the case.

If the IEPA is “focusing” its resources on discharging CAFOs discovered through complaints, it might be assumed that this focus would include routine follow-up investigations of facilities in response to such complaints. The following accounts suggest that this is not occurring.

Take for example the previously mentioned SF Ventures, LLC discharge into the Deep Run Creek that caused the fish-kill in August of 2008. According to reports from citizens, an anonymous complaint about the facility was actually filed ten days prior to the fish-kill. Although this complaint alerted the IEPA to the problems at the facility well in advance, an investigation of the facility was not conducted by the IEPA until after the fish-kill occurred. This kind of retroactive action is unacceptable. Had the IEPA adequately responded to the initial complaint ten days prior, the fish-kill may have been avoided.

Another example is the IEPA’s response to a complaint that was filed on September 15, 2008 by Schuyler County citizens. The complaint warned of suspected discharges into the Sugar Creek from a 6,000 to 8,000-head farrow to finish hog CAFO. The complaint provided compelling evidence that run-off from dead hog carcasses located in the facility’s production area was discharging into the Sugar Creek. *See Exhibit D* (attached). (The Sugar Creek is located just west of the facility and approximately 1000 feet down-slope from the production area where the carcasses were located.)

The IEPA’s response to this complaint, involved reviewing “the dead animal handling procedures that the facility utilizes with a facility representative.” *See Id.*, Exhibit D. By “reviewing” these procedures with a facility representative, the IEPA was apparently able to make a determination that a follow-up investigation was unnecessary. According to the individual that filed the complaint, there was no further investigation of the facility or enforcement action taken.

Although the IEPA has claimed that it is “focusing its resources on discharging facilities discovered mainly through complaints” (*see Exhibit B*), the Agency does not appear to be conducting timely complaint investigations on a routine basis. So long as the IEPA continues to implement its CWA regulations for CAFOs in an “after-the-fact” manner by only stepping in after discharges occur, widespread pollution problems from CAFOs will persist. The August 2008 discharge from the Henderson County CAFO demonstrates this.

Conclusion

ICCAW and EIP maintain that Illinois is not administering and enforcing the CWA effectively, and that the action sought by the Petition for Withdrawal of the State of Illinois’ NPDES Program Delegation is justified. The IEPA continues to fail to exercise proper NPDES regulatory oversight over CAFOs. This problem has been exacerbated by the Agency’s ongoing neglect to adequately respond to citizen concerns. (*The attached Exhibits provide specific examples of this.*) So long as these inadequate regulatory policies remain,

CAFO pollution problems in Illinois will persist.

It is unreasonable for the IEPA to wait until the State completely revises its CWA regulations in response to the *Waterkeeper* decision before regulating CAFOs with NPDES permit requirements. These requirements have been in place, and have remained unchanged, for 30+ years. Further, regardless of the rule changes in the 2008 CAFO Rule, the IEPA's position can't be that the CWA doesn't apply unless citizens can show repeated discharges from the same facility. This position is untenable because it places everyone in the position of having to wait until groundwater, rivers, and streams are irreparably damaged before permit requirements kick in. This is essentially "closing the barn door after the manure is already out."

The facilities identified herein should be required to have permits that comply with NPDES requirements. If the State of Illinois will not see to this, the U.S. EPA should take enforcement action and require permit applications and compliance.

Thank you for your consideration.

Respectfully,


Danielle Diamond, Counsel

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Encl.

Cc: *via email*

Matthew Gluckman, USEPA Region 5
Eric Schaeffer, Executive Director EIP
Dr. Kendall Thu, Representative ICCAW
Karen Hudson, Representative ICCAW
Douglas P. Scott, IEPA Director
Marcia Willhite, IEPA Bureau of Water Chief

**ICCAW/EIP PETITION SUPPLEMENT
LIST OF EXHIBITS**

Exhibit

- A** Series of requests to the IEPA asking that the Traditions South facility be required to apply for an NPDES permit
- Part 1 – Letter to Douglas P. Scott, Director of IEPA from Ken Turner, H.O.M.E.S., April 30, 2008
- Part 2 – Letter to Douglas P. Scott, Director of IEPA from Ken Turner, H.O.M.E.S., May 11, 2008
- Part 3 – Letter to Douglas P. Scott, Director of IEPA from Ken Turner, H.O.M.E.S., June 14, 2008
- B** Response Letter from IEPA Director Douglas P. Scott to Ken Turner regarding the Traditions South NPDES permit request, May 9, 2008
- C** FOIA request submitted to IEPA by Mr. Bern Colleran, H.O.M.E.S., regarding the Traditions South facility and IEPA responses
- Part 1 – FOIA request, submitted to IEPA by Bern Colleran, H.O.M.E.S., August 1, 2008
- Part 2 – IEPA response from Janet Christer, FOIA Coordinator, Records Unit, Bureau of Water, August 6, 2008
- Part 3 – IEPA response from Michael J. McCabe, Freedom of Information, Division of Legal Counsel, August 19, 2008
- Part 4 – IEPA response from Ed Bakowski, Manager Permit Section-Acting, Division of Air Pollution Control, August 4, 2008
- Part 5 – IEPA response from Carolyn Wright, Office of Emergency Response, FOIA Coordinator, August 4, 2008
- D** Email complaint filed by Schuler County citizens regarding suspected production area discharges from Large CAFO into the Sugar Creek, September 15, 2008, and IEPA response, September 16, 2008



To: douglas.scott@illinois.gov, dan.heacock@illinois.gov, al.keller@illinois.gov
From: Kenneth Turner/D211
Date: 04/30/2008 09:25AM
cc: gluckman.matthew@epa.gov, berman.michail@epa.gov, jmcbride@atg.state.il.us,
lmadigan@atg.state.il.us, kturner@d211.org
Subject: NPDES Permit application required, megadairy

Director, IEPA

Douglas Scott,
The attached letter was sent to members of your department, April 21, 2008, requesting that an NPDES permit application be requested from the Traditions Dairies, North and South Facilities, proposed for Jo Daviess County. The attached letter demonstrates clearly that such a permit is required for the proposed facility. It is my most sincere hope that you will use the authority of your office to facilitate an urgent request to those responsible at these facilities.

I urge you to send a registered letter reminding AJ Bos (owner) and Terry Feldmann (project engineer) that they are required to submit an application for an NPDES permit 180 days prior to commencing operations. Their addresses are below:

A.J. Bos
10600 Rycroft Way , Bakersfield , CA 93311

Terry Feldmann, Project engineer,
Maurer Stutz, Inc
7615 N. Harker Drive , Peoria , IL 61615

I hope you will see the need to require application for an NPDES permit immediately. Please let me know if there is any further information that you require. I thank you for your urgent attention and effort in this required task of the IEPA.

Sincerely,
Ken Turner
415 Park
Warren , IL

(see letter on next page)

Illinois Environmental Protection Agency

Dear IEPA,

As a clear and certain part of your duty to “safeguard environmental quality” thereby “protecting health, welfare, property, and the quality of life” in Illinois (IEPA Mission Statement), I ask that you require the application for an NPDES permit from the Traditions Dairies LLC, North and South Facilities; the large CAFO’s proposed for Jo Daviess County in Northwestern Illinois. As you may know, this proposed megadairy will be the largest of its kind in Illinois. Certainly that fact alone warrants caution on the part of those who would permit this facility in Illinois. But beyond that, there are three compelling reasons for requiring the application for an NPDES permit.

First, IEPA requires all new large CAFO’s to apply for an NPDES permit. “If you are a completely new CAFO, you must apply for a NPDES permit 180 days prior to operating. Example: You open new facilities on a new site.” (IEPA regulations) Testimony given at the public hearing in Warren on January 10, 2008 clearly stated that both facilities were going to exceed the amount required to qualify for the EPA designation as “large CAFO”. The Clean Water Act requires this permitting process. As the IEPA is the local body that bears this authority, the IEPA is required to act. Thus the IEPA shall require the application for an NPDES permit from the proposed facility.

Secondly, any facility that proposes to discharge to waters of the US is required to apply for an NPDES permit. Both facilities are in the watershed of the Apple River, as the Wolf Creek which leads to the Apple River is present in both sites, furthermore, the proposed North facility will position its waste lagoons on top of Wolf Creek. Wolf Creek meets the definition of “waters of the US”, as these include “All other waters such as intrastate lakes, rivers, streams (including intermittent streams), ... the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including and such waters: 1) which are or could be used by interstate or foreign travelers for recreational or other purposes...” The Apple River Canyon State Park will be affected by any waste discharged to Wolf Creek. Apple River Canyon State Park has tens of thousands of visitors per year. Many of those are out-of-state visitors who use the park for fishing, etc. Some might claim that there will be no discharge. That is a false claim, and the people who make it should be chastised either for their ignorance, or for their willful efforts to hide the truth. In “Do Earthen Structures Leak?”, Manure Matters, 1998 by Dennis Schulte of the UNL Department of Biological Systems Engineering, Schulte states, “the simple answer is yes.” and goes on to discuss the how, the why, the etc. of the leaks. In “Field Performance of Compacted Clay Liners” by Craig H. Benson, 1999, the author shows that all of the 85 waste lagoons studied leak and he compares their field performance with the design expectations. It was expected that they would leak. The unexpected part was that only 74% of the 85 met the performance standard designed for the lagoons. In “Seepage Losses From Animal Waste Lagoons: A Summary of a Four-Year Investigation in Kansas” by J. M. Ham in 2002, the author studies 20 lagoons and measures the rate at which they leak. It is not surprising to the author that they leak. They all leak. Furthermore, the average leak from the cattle feedlots surveyed is 385 kg/Ha/yr. That is the same as 155.804 kg/acre/yr, or for each of the two proposed facilities, more than 11,678 pounds of waste per year. Certainly, this qualifies as a

discharge! Each of these studies is done on the same type of manure storage lagoon that has been proposed for the megadairies in Jo Daviess County. These storage facilities are actually designed to discharge. These facilities propose to discharge to waters of the US. Again, the IEPA must require these facilities to apply for an NPDES permit.

Finally, if a facility should “threaten to cause pollution” the facility must apply for an NPDES permit, again, quoting the statute,

“No person shall: (a) Cause or threaten or allow the discharge of any contaminants into the environment ...so as to cause or tend to cause water pollution in Illinois...(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein...without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act.” (A CAFO is defined as a point source discharge.)

As so many of these large CAFO’s have spills, leaks, and other mishaps; this proposed CAFO is a threat to cause pollution. There was a spill at Stone Ridge Dairy in 2004, the only other large dairy CAFO in the state. There was a spill at the Country Aire Farms Dairy in Wisconsin in 2008. Documented problems in Oregon go back for years, including the fine imposed in 1999 by the EPA. The spill in Walkersville, Maryland in 2008 contaminated the municipal drinking water for months. The EPA has records of many, many of these episodes, all over the country. No one expected or anticipated these spills. But when they occur with so great a frequency, it is time to anticipate their consequences. These facilities threaten to cause discharge of contaminants into the environment. They are required to apply for an NPDES permit.

Each of these three cases requires the proposed projects to apply for an NPDES permit. When you consider that the State Geologist has stated that the proposed site is located on “Karst” and “It is the aquifer that is key. Groundwater flowing through a karst aquifer can travel miles per hour, whereas, groundwater flowing through a sand and gravel aquifer may travel feet per year. In a karst aquifer, surface-borne pollutants (e.g., a spill or seepage of animal waste) can contaminate wells miles away from the source in a matter of hours.”, you must conclude that not requiring an NPDES permit would be an omission with grave consequences.

In summary, the proposed facilities are new, large CAFO’s, and are therefore required to apply for an NPDES permit. They propose to discharge to waters of the US, and are therefore required to apply for an NPDES permit. They threaten to cause water pollution in Illinois and are therefore required to apply for an NPDES permit. As the State of Illinois NPDES permitting arm of the United States Environmental Protection Agency, it is your job, but as the arm of government that will ensure the protection of the environment and the safety of its citizens, it is an obligation you must pursue with vigor. It is a mandate given to your place in the government for the benefit of us today, and our children tomorrow. After all, “Each of us has the responsibility to protect the environment- not just for our quality of life today, but for the generations to come.” Douglas P Scott, Director IEPA. You must require an application for an NPDES permit from the proposed Traditions Dairies facilities, North and South.

I anticipate hearing from you immediately on the status of requiring these applications. It is a matter of utmost urgency and critical in its implications for the environment and the citizens of Illinois.

Sincerely,
Ken Turner
Warren, IL
H: 815-745-9013
W: 847-755-4816



To: doug.scott@illinois.gov, lisa.bonnett@illinois.gov, karen.a.cox@illinois.gov
From: Kenneth Turner/D211
Date: 05/11/2008 07:57PM
cc: gluckman.matthew@epa.gov, berman.michael@epa.gov, jmcbride@atg.state.il.us
Subject: proposed megadairy, Jo Daviess

Mr. Scott,
Please find an attached letter that documents my continuing concerns with the proposed megadairy.

Thank you for your continuing efforts,
Sincerely,
Ken Turner
Warren, IL

(see letter on next page)

Douglas P. Scott
Director
Illinois Environmental Protection Agency

May 11, 2008

Dear Mr. Scott,

Thank you so much for your letter of May 9, in response to my e-mail of April 30. I certainly appreciate your efforts to bring further resolution to the required NPDES permit application from Traditions Dairies LLC, a facility proposed for Jo Daviess County and that is currently being reviewed by the Illinois Department of Agriculture for compliance with design/construction requirements of the Livestock Management Facilities Act (LMFA).

Thanks to your efforts, I see that although the facility is designed to contaminate the groundwater, that by itself is no reason to require an application for the NPDES permit. Apparently, pollution and/or contamination of the surface water, waters of the United States, would require an NPDES permit; whereas pollution and/or contamination of groundwater has no such requirement. To re-state what you wrote, groundwater contamination will become a matter for the Illinois EPA's enforcement program after it occurs. No need or requirement for an NPDES permit before that contamination occurs. (Please remember that the USDA Natural Resources Conservation Services standard for this kind of lagoon allows a seepage rate of more than 0.25 inches/day. This translates to 6,800 gallons/acre/day, or for the total area of the proposed site, **462,400** gallons/day! This is NOT "zero discharge".) You stated in your letter, "Any failure of the lagoon system and release into groundwater would become a matter for Illinois EPA's enforcement program." Failure...? The 462,400 gallons/day will not be a failure-it is allowed by the standard of the USDA. The lagoons are permitted this rate of contamination of the groundwater. According to your statements, then, you are saying that no compliance with an NPDES permit application is required because they are releasing up to 462,400 gallons/day into the groundwater, not "waters of the United States". It seems to me that the statement in 415 ILCS 5/39 (b), "the agency may issue an NPDES permit... within the jurisdiction of the state, or into any well" applies. It would be hard to convince people that the IEPA were doing its job if they were unable to prevent a specific point source pollution of a well from occurring. Also, 415 ILCS 5/11 (c), states, "The provisions of this act... pursuant to an NPDES program shall not be construed to limit, affect, impair, or diminish the authority... of the agency... to regulate and control pollution of any kind." There is comfort in those words. The cool, calm, and collected comfort that the IEPA has the authority, even the obligation, to control this pollution of the wells and ground water in the area of the proposed megadairy. I am certain you did not mean to state that the agency was powerless to request an application from the project. Surely you did not mean that the agency must wait for the pollution to happen. Such convoluted reasoning would be incredible and possibly illegal. I find it extremely difficult to believe that this kind of certain contamination can only be stopped after it happens. I would think a "Protection" agency would have some means to actually protect the citizens and environment from this pollution before it occurred, that is why the NPDES permitting regulations were written.

Still, if the NPDES permit is only required if the CAFO is discharging or proposing to discharge to "waters of the United States", then the NPDES permit is still required. This part of the act still

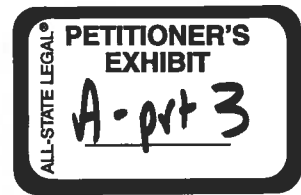
stands. As I stated in my previous letter, the Wolf Creek, which leads to the Apple River is present in both sites. Furthermore, the proposed North facility will position its waste lagoons on top of Wolf Creek. Wolf Creek leads to Apple River. Apple River is the central feature of Apple River Canyon State Park with many, many visitors, hikers, campers, and fishermen from this state and others. Wolf Creek is a "waters of the United States". Furthermore, there is a permanent spring in the site that feeds groundwater from the site directly into the creek. I believe this is what is considered a "significant nexus" to waters of the United States. The seepage, leakage, spillage into groundwater will contaminate the wells, the spring, and the Wolf Creek. The Traditions Dairies proposes to discharge to them. Not all of the seepage, run-off, etc. is going into groundwater. Some of the South facility contamination and much of the North facility is going to the surface water, the "waters of the United States". The Traditions Dairies LLC proposes to discharge to waters of the United States. I think that is very clear. It is unsettling that this very clear point was not even mentioned in your letter of May 9, 2008. If Traditions Dairies proposes to discharge to waters of the United States, they are required to submit an application for an NPDES permit.

Furthermore, if a facility should "threaten to cause pollution", the facility must apply for an NPDES permit. Again, "No person shall: (a) Cause or threaten or allow the discharge of any contaminant into the environment... so as to cause or tend to cause water pollution in Illinois...(f) Cause threaten or allow the discharge of any contaminant into the waters of the State, as defined herein... without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act" (A CAFO is defined as a point source discharge.) Allow me to describe the threat. Any state that has a history with these facilities will provide ample description- I have chosen Iowa. Between 1992 and 2004 there were more than 450 manure spills from CAFO's. 2/3 of those reached surface waters of the state, killing over 2.6 million fish. IDNR estimated that the volume of manure released from just 23 of the total documented spills exceeded a staggering 4.4 million gallons. Mr. Scott, the threat to cause pollution is real and documented. This is the kind of documentation that will hold in a court of law. The Traditions Dairies project is a threat to cause pollution and must apply for an NPDES permit.

As an aside, I am glad that the IEPA worked closely with the IDOA as they established the design standards for these structures in the LMFA and suggested protective construction requirements for lagoons placed in areas known to contain karst. Yes, the IDOA has the statutory responsibility to assure that the proposed design and construction meet these requirements. What a pity the IDOA is choosing to ignore these standards. But this is all the more reason for the IEPA to play a more active role than that currently chosen.

Traditions Dairies proposes to discharge to waters of the United States and threatens to cause water pollution in Illinois. They are required by law to apply for an NPDES permit. You are the director of the Illinois Environmental Protection Agency, and it is your responsibility to require this application. I hope you will immediately require the application of an NPDES permit for the proposed megadairies. Your dereliction of this duty will have the most severe of consequences.

Very truly yours,
Ken Turner
Warren, IL



To: doug.scott@illinois.gov, al.keller@illinois.gov
From: Kenneth Turner/D211
Date: 06/14/2008 01:37PM
cc: gluckman.matthew@epa.gov, berman.michael@epa.gov, lmadigan@atg.state.il.us,
jmcbride@atg.state.il.us
Subject: mega dairy woes and NPDES

Dear Director Doug Scott,

I have still had no response to my request for further clarification on why an NPDES permit had not been required from the Traditions Dairies group in Jo Daviess County (May 11). If you were waiting for the Department of Agriculture to grant them permission, that happened on May 30. It is time to require application for the NPDES permit. They propose to discharge to "waters of the United States".

Please read the attached letter and act as swiftly as possible. I await your response.

Thanks for your time and efforts!
Ken Turner

(see letter on next page)

Douglas P. Scott
Director
Illinois Environmental Protection Agency

Dear Mr. Scott,

Thank you so much for your letter of May 9, in response to my e-mail of April 30. I certainly appreciate your efforts to bring further resolution to the required NPDES permit application from Traditions Dairies LLC, a facility proposed for Jo Daviess County and that is currently being reviewed by the Illinois Department of Agriculture for compliance with design/construction requirements of the Livestock Management Facilities Act (LMFA). I still have not heard your response to my letter of May 11.

Apparently a facility that will contaminate the groundwater, is no reason to require an application for the NPDES permit. Pollution and/or contamination of the surface water, waters of the United States, would require an NPDES permit; whereas pollution and/or contamination of groundwater has no such requirement. (Please remember that the USDA Natural Resources Conservation Services standard for this kind of lagoon allows a seepage rate of more than 0.25 inches/day. This translates to 6,800 gallons/acre/day, or for the total area of the proposed site, **462,400** gallons/day! This is NOT "zero discharge".) I know that, "Any failure of the lagoon system and release into groundwater would become a matter for Illinois EPA's enforcement program." Failure...? The 462,400 gallons/day will not be a failure- it is allowed by the standard of the USDA. The lagoons are permitted this rate of contamination of the groundwater. They may only leak 1,000 – 1,300 gallons/acre/day. According to an engineer I have correspondence with, that would be a typical seepage rate for the type of pond plan that has been submitted. I can easily enough give you my sources for any of the information I have written. According to your statements, then, you are saying that no compliance with an NPDES permit application is required because they are releasing up to 462,400 gallons/day into the groundwater, not "waters of the United States". It seems to me that the statement in 415 ILCS 5/39 (b), "the agency may issue an NPDES permit... within the jurisdiction of the state, or into any well" applies. The nearby community of Nora is on well and septic. There are several wells there that are less than 100 feet deep. These will certainly be compromised. It would be hard to convince people that the IEPA were doing its job if they were unable to prevent a specific point source pollution of a well from occurring. Also, 415 ILCS 5/11 (c), states, "The provisions of this act... pursuant to an NPDES program shall not be construed to limit, affect, impair, or diminish the authority... of the agency... to regulate and control pollution of any kind." There is comfort in those words. The cool, calm, and collected comfort that the IEPA has the authority, even the obligation, to control this pollution of the wells and ground water in the area of the proposed megadairy. I am certain you did not mean to state that the agency was powerless to request an application from the project. Surely you did not mean that the agency must wait for the pollution to happen?!

Still, if the NPDES permit is only required if the CAFO is discharging or proposing to discharge to "**waters of the United States**", then the NPDES permit is still required. This part of the act still stands. As I stated in my previous letter, the Wolf Creek, which leads to the Apple River is

present in both sites. Wolf Creek leads to Apple River. Apple River is the central feature of Apple River Canyon State Park with many, many visitors, hikers, campers, and fishermen from this state and others. Wolf Creek is a “waters of the United States”. Furthermore, there is a permanent spring in the site that feeds groundwater from the site directly into the creek. I believe this is what is considered a “**significant nexus**” to waters of the United States. The seepage, leakage, spillage into groundwater will contaminate the wells, the spring, and the Wolf Creek. The Traditions Dairies proposes to discharge to them. Not all of the seepage, run-off, etc. is going into groundwater. Some of the South facility contamination is going to the surface water, the “**waters of the United States**”. The Traditions Dairies LLC proposes to discharge to waters of the United States. I think that is very clear. If Traditions Dairies proposes to discharge to waters of the United States, they are required to submit an application for an NPDES permit.

Furthermore, if a facility should “threaten to cause pollution”, the facility must apply for an NPDES permit. Again, “No person shall: (a) Cause or threaten or allow the discharge of any contaminant into the environment... so as to cause or tend to cause water pollution in Illinois...(f) Cause threaten or allow the discharge of any contaminant into the waters of the State, as defined herein... without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act” (A CAFO is defined as a point source discharge.) Allow me to describe the threat. Any state that has a history with these facilities will provide ample description- I have chosen Iowa. Between 1992 and 2004 there were more than 450 manure spills from CAFO’s. 2/3 of those reached surface waters of the state, killing over 2.6 million fish. IDNR estimated that the volume of manure released from just 23 of the total documented spills exceeded a staggering 4.4 million gallons. Mr. Scott, the threat to cause pollution is real and documented. This is the kind of documentation that will hold in a court of law. The Traditions Dairies project is a threat to cause pollution and must apply for an NPDES permit.

As an aside, I am glad that the IEPA worked closely with the IDOA as they established the design standards for these structures in the LMFA and suggested protective construction requirements for lagoons placed in areas known to contain karst. Yes, the IDOA has the statutory responsibility to assure that the proposed design and construction meet these requirements. What a pity the IDOA is choosing to ignore these standards. But this is all the more reason for the IEPA to play a more active role than that currently chosen.

Traditions Dairies proposes to pollute wells, discharge to waters of the United States, and threatens to cause water pollution in Illinois. They are required by law to apply for an NPDES permit. You are the director of the Illinois Environmental Protection Agency, and it is your responsibility to require this application. I hope you will immediately require the application of an NPDES permit for the proposed megadairies.

I require a response to this message of utmost importance.

Very truly yours,
Ken Turner
Warren, IL
815-745-9013



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR



May 9, 2008

Mr. Ken Turner
Warren, IL

Dear Mr. Turner:

This responds to the e-mail you sent on April 30, 2008 that urges Illinois EPA to seek an NPDES permit application from Traditions Dairies LLC, a facility that is proposed for Jo Daviess County and that is currently being reviewed by the Illinois Department of Agriculture for compliance with design/construction requirements of the Livestock Management Facilities Act (LMFA).

The issue of which CAFOs must be permitted under NPDES in Illinois is not as clear as your letter suggests. While it is true that 35 Ill. Adm. Code Section 502.103 requires that operations that have a certain number of animals must obtain an NPDES permit, Section 501.102 does not require a permit when the facility discharges only as a result of a 25-year, 24-hour storm event. Illinois EPA is also bound by Section 12(f) of the Illinois Environmental Protection Act. This section states, in part: "No permit shall be required under this subsection and under Section 39(b) of this Act for any discharge for which a permit is not required under the Federal Water Pollution Control Act, as now or hereafter amended, and regulations pursuant thereto." USEPA promulgated a CAFO rule in 2003 that required NPDES permits for large CAFOs. In 2004, a federal appeals court struck down this requirement, stating that USEPA could not require an NPDES permit for a large CAFO unless the CAFO was discharging or proposed to discharge. Since federal rules pursuant to the Clean Water Act (the new name for the Federal Water Pollution Control Act) do not require an NPDES permit for a facility simply because of the number of animals confined, Illinois may not require an NPDES permit for Traditions Dairies solely based on the number of animals it plans to confine.

Similarly, Illinois EPA may not require an NPDES permit if the sole discharge is to groundwater. You stated your belief that the proposed lagoons would leak to groundwater both because "lagoons always leak" and because of the karst geology in the area. However, since "waters of the United States" presently do not include groundwater, Illinois EPA again faces the statutory restriction against issuing an NPDES permit that would not be required by the Clean Water Act.

Illinois EPA certainly understands the risks to groundwater that can be posed by manure storage lagoons that are improperly designed or located. This is why we worked very closely with the Illinois Department of Agriculture (IDOA) as they established the design

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120 • MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

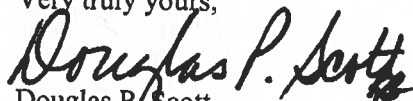
PRINTED ON RECYCLED PAPER

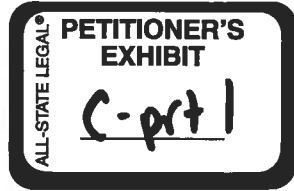
standards for these structures in the LMFA and suggested protective construction requirements for lagoons placed in areas known to contain karst. IDOA has the statutory responsibility to assure that the proposed design and construction meet these requirements. Although you request that the Illinois EPA require a permit for the facility because lagoons leak and the lagoon is proposed for construction in a karst area, this is not a permitting issue. Any failure of the lagoon system and release into groundwater would become a matter for Illinois EPA's enforcement program.

USEPA is in the process of developing a new CAFO rule that is consistent with the court decision. While Illinois EPA awaits clarity at the federal level about which CAFOs are required to be permitted under NPDES, we are focusing our resources on addressing discharging CAFOs that are discovered mainly through complaint investigations. We are using our enforcement program to eliminate the discharge and/or require the CAFO to apply for an NPDES permit.

I appreciate your help in focusing the attention of Illinois EPA on a potential water pollution source. If the facility receives approval from IDOA and is constructed, we stand ready to assure that it is operated in compliance with the Illinois Environmental Protection Act.

Very truly yours,


Douglas P. Scott
Director



Verification of FOIA Submittal

FOIA Request submitted by: Mr. Bern Colleran
Automated reply sent to: stagecoachtrail@sbcglobal.net

Subject: FOIA Request - Bern Colleran 8/1/2008 4:23:53 PM - 8/1/2008-506403

If you provided a valid return email address, the summary of your request will be sent. For additional questions, please feel free to use the contact information below:

- Bureau of Air - Marilyn Clardy - 217/782-2113 - 217/524-5023(FAX)
- Bureau of Land - Jan Ogden - 217/557-2482 - 217/782-9290(FAX)
- Bureau of Water - Janet Christer 217/782-8482 - 217/782-9891(FAX)
- Office of Emergency Response - Carolyn Wright - 217/558-1677 - 217/782-1431(FAX)
- Division of Legal Counsel - Michael McCabe - 217/782-5544 - 217/782-9807(FAX)

Thank you.
To submit another FOIA request, click the "New Request" button below.

[New Request](#)

*Please do not refresh your browser or navigate backwards during the form request process.
To cancel and begin a new application, use the cancel button below.*

I. Requester Information (completed) 8/1/2008-50

II. Facility/Location/Subject Matter (if no bureau, incident, permit, or USEPA ID is known, at a minimum, please include the street address in addition to the city)

Identification Number

Name

Address

City/Township

County

Or

Subject Matter

III. Routing of the Request Check only the areas below from which you want information (must select at least 1).

- | | | | | |
|---|---|---|---|---|
| <input checked="" type="checkbox"/> (BOA) | <input checked="" type="checkbox"/> (BOL) | <input checked="" type="checkbox"/> (BOW) | <input checked="" type="checkbox"/> (DLC/Other) | <input checked="" type="checkbox"/> (OER) |
| Bureau of Air
Air Quality Data
Asbestos | Bureau of Land
U.S.T.
Groundwater | Bureau of Water
Drinking Water
Wastewater | Division of Legal
Counsel
Enforcement | Office of
Emergency
Response |

Any documents pertaining to or generated in the matter of the application or status of the application, or correspondence between or within State of Illinois departments or agencies on any aspect relating to the application made by A. J. Bos of Bakersfield, CA, for permits or clearances or permissions in his attempt to operate factory farm facilities known as Traditions Dairies near the town of Nora, Illinois. This should include documents of any type described below generated in the above matter. These documents include but should not be confined to the following:

- Applications, including any IEPA notations on the paperwork or other internal communication pertaining to it;
- Mail correspondence sent by and received by IEPA to and from any party or representative involved in the case;
- E-mail correspondence, also in both directions, between the applicant or his representatives and any official of the Ill. EPA or any other state official, as forwarded by other state official to Ill. EPA;
- Memorandums and notes regarding phone conversations on the case generated by EPA personnel or other state officials
- Transcripts, or notes if no transcript is made, of all meetings between the Applicant and/or his representatives and employees of Illinois EPA or parties engaged by Illinois EPA in any capacity in connection with this case.

FOIA Request Form

Please do not refresh your browser or navigate backwards during the form request process.

To cancel and begin a new application, use the cancel button below.

Continue to complete section IV (Information Requested), then click the Submit Request button (when enabled).

I. Applicant Information *(completed)*

II. Facility Information *(completed)*

III. Routing Information *(completed)*

IV. Information Requested

Click on each enabled button (below) to enter/edit specific information you would like. The Submit button will be enabled once you've entered data from the area (Bureau/Division/Office) requested.

Updated 4:07:30
PM

Updated 4:15:45
PM

Updated 4:17:52
PM

Updated 4:19:17 PM

Updated 4:19:50
PM



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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8/6/2008

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR
Phone: 217/782-8482

Fax: 217/782-9891

Email: foia@illinois.gov

Bern Colleran
H.O.M.E.S.
2704 N. St. Louis Av
Chicago, IL 60647

ALL-STATE LEGAL
PETITIONER'S
EXHIBIT
C-prt 2

RE: Request regarding information concerning property(s) in IL: **2008-2935**
Traditions Dairy/AJ Bos/Maurer-Stutz Engineering, Nora, IL

Dear Bern Colleran:

The FOIA Sector, Bureau of Water, has processed your FOIA request **2008-2935** dated 8/1/2008 for public records pursuant to the Freedom of Information Act ("FOIA") (5 ILCS 140/1 et. Seq.). The Bureau of Water, Water Pollution Control Division has no information regarding the subject of your request, as referenced above.

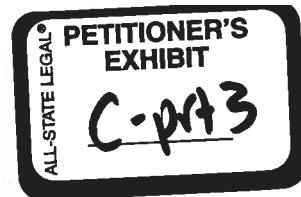
For the DMR Data, go to: <http://www.epa.gov/echo/>. At this screen pick Related Links from the list on the left hand side. On the next screen, pick the EPA Envirofacts Warehouse. In the middle of the screen under advanced capabilities, pick queries and pick PCS from the drop down box. At the query form, you must enter the information needed for the site.

The Bureau of Water, Division of Public Water Supplies' file's are structured around community water systems and would not have information regarding the referenced property(s) in your request. If you wish to receive any well data relative to particular community water supplies or facilities proximate to the site(s) in question the Bureau of Water respectfully requests that you resubmit this request with additional details. Specifically, the Division of Public Water Supplies will need the exact location of the site in question including a map of the site, at an appropriate scale, and the legal description of the property down to the 1/4, 1/4, 1/4 of the Section. Furthermore, the Division of Public Water Supplies needs to know the size or extent of the area of concern (e.g., "x" distance from the site in question).

Please contact me at the above referenced number, if you require further assistance.

Sincerely,
Janet Christer

Janet Christer
FOIA Coordinator, Records Unit
Bureau of Water
cc: File



217/782-5544

August 19, 2008

Bern Colleran
H.O.M.E.S.
2704 N. St. Louis Av
Chicago, IL. 60647

RE: Freedom of Information Act Request
Traditions Dairy and or A.J. Bos and or Maurer-Stutz Engineering
Nora Township

Dear Mr. Colleran:

This letter is in response to your Freedom of Information Act ("FOIA") request, to the Illinois Environmental Protection Agency ("Illinois EPA"), for information pertaining to the above location, address, individual, facility, or entity.

Please be advised no records were located in the Division of Legal Counsel files responsive to your information request. Thank you for your patience in this matter.

Should you have any questions, please do not hesitate to call me at 217/782-5544.

Sincerely,

Michael J. McCabe

Michael J. McCabe
Freedom of Information
Division of Legal Counsel
Illinois Environmental Protection Agency

Cc: file



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19506, SPRINGFIELD, ILLINOIS 62794-9506 - (217) 782-2113

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

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C-PT-4

(217) 782-2113

Monday, August 04, 2008

H.O.M.E.S.

Attn: Bern Colleran

2704 N. St. Louis Ave

Chicago, IL 60647-

Re: FOIA Request Received 8/1/2008

Dear Mr. Colleran:

The IEPA Bureau of Air does not have any files or permits for the facility(s) listed below.

Traditions Dairy/A.J. Bros./Maurer-Stutz Engineering
Nora, IL

If you have any questions, please feel free to contact the FOIA Coordinator at the number indicated above.

Sincerely,

Ed Bakowski
Manager, Permit Section - Acting
Division of Air Pollution Control



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. Box 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3399
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ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

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8/4/2008

Bern Colleran
H.O.M.E.S.
2704 N St Louis Ave
Chicago, IL 60647

Re: FREEDOM OF INFORMATION ACT (FOIA) REQUEST - OER # 0019601
NO INFORMATION FOUND

This letter is in response to your request for public records pursuant to the Freedom of Information Act ("FOIA") (5 ILCS 140/1 et.seq.) processed by the Office of Emergency Response.

Your request was received: 8/1/2008.

You requested information about: Traditions Dairy/ AJ Bos/ Maurer-Stutz Engineering- Nora Twp, Jo Daviess County (Jan 1 2007 - present).

A search of our file index databases identified that there are no public records contained therein which match the parameters of your request.

Please contact me at 217/558-1677 for further assistance.

Sincerely,

Carolyn Wright
FOIA Coordinator
Office of Emergency Response



From: [Ginder, David](#)

To: [Karen](#)

Sent: Tuesday, September 16, 2008 10:51 AM

Subject: RE: PICTURES OF HILLTOP CONFINEMENT...

Mrs. Hopkins,

I have viewed the digital photographs that you forwarded. I reviewed the dead animal handling procedures that the facility utilizes with a facility representative and have determined that the dead animal handling procedures are acceptable and meet the requirements of the Illinois Dead Animal Disposal Act.

The submitted photographs do not show livestock waste or leachate/runoff from a dead animal building, from a dead animal composting structure, from a livestock feed storage area or from a livestock bedding storage area reaching waters of the State but rather show slightly turbid surface runoff from the facility which one would expect from such a facility as well as numerous other types of facilities and properties including residential properties after a 4.5" precipitation event. The photograph of Sugar Creek shows turbid water that one would expect in rural Illinois after such a precipitation event. One can also determine from the photograph of Sugar Creek that properties in the entire watershed tributary to Sugar Creek at the location where the photograph was taken, not just Hilltop Farm, contribute to the turbidity observed in Sugar Creek.

Please contact the Agency with any future concerns that you have when observing the livestock waste, dead animal, livestock feed and livestock bedding material handling and storage practices at Hilltop Farm.

David P. Ginder
Environmental Protection Engineer
Field Operations Section
Division of Water Pollution Control

As of 1/1/08 my email address is: David.Ginder@illinois.gov

As of 4/7/08 my contact information is:

Illinois EPA
Springfield Field Office Staff, MC #10
1021 North Grand Avenue East, P.O. Box 19276
Springfield, Illinois 62794-9276
Phone: 217/557-8761

From: Karen [<mailto:jk4ranch@frontiernet.net>]

Sent: Monday, September 15, 2008 3:54 PM

To: Ginder, David

Subject: PICTURES OF HILLTOP CONFINEMENT...

WE TOOK A DRIVE OVER TO THE HILLTOP HOG CONFINEMENT YESTERDAY 9/14/08 SINCE THE RAINS HAS BEEN SO BAD AND THIS IS WHAT WE FOUND...



DEAD HOGS OUTSIDE HILLTOP CONFINEMENT DOOR OAKLAND TWP SCHUYLER CO



CULVERT NEXT TO THE HILLTOP ENTRANCE RAIN RUN OFF DRAINING INTO DITCH



WATER RUNNING OUT OF THE HILLTOP CONFINEMENT DRIVEWAY NEXT TO CULVERT
RUNNING DOWN THE ROAD TO SUGARCREEK IN ABOVE PICTURE



DONNIE WARD TAKING WATER SAMPLE FROM RUN OFF AT DRIVEWAY OF HILLTOP CONFINEMENT



GRAY WATER IN DITCH AT SAME SITE AS ABOVE



SUGARCREEK OUT BELOW HILLTOP CONFINEMENT AT HOPKINS FARM [JK4 RANCH] GAUGE SHOWS 4 1/2" OF RAIN



KAREN & JIM HOPKINS
JK4 RANCH
RUSHVILLE,IL
<http://www.avg.com>

No virus found in this incoming message.

Checked by AVG - <http://www.avg.com>

Version: 8.0.169 / Virus Database: 270.6.21/1674 - Release Date: 9/16/2008 8:15 AM