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

October 7, 2014

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

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

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



Written Public Comments Submitted by

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

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

Response:

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

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

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

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

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

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

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

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

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

Response:

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

Revisions from Draft Permit to Final Permit

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