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**Responsiveness Summary to public comments on the
Pessefall Farms draft Permit to Install and draft Permit to Operate**
November 4, 2011

On September 14, 2011, the Ohio Department of Agriculture issued a public notice of the Pessefall Farms draft Permit to Install and draft Permit to Operate. This public notice opened the public comment period on the draft permits and informed the public that a public meeting would be held on October 19, 2011 to accept comments. The comment period ended at 5:00 p.m. on October 26, 2011.

The Director's final decision on the draft permits 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 permits and the way in which the draft permits comply 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, 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.

Similar comments are grouped and summarized.



No.	Date Received	Name	Organization, if any	City, State
1	10/19/2011	William K. Skeldon		Oakwood, OH
2	10/19/2011	Rick Elston		Oakwood, OH
3	10/19/2011	Jan Skeldon		Oakwood, OH
4	10/19/2011	Randal Skiver		Defiance, OH
5	10/19/2011	Bobby R. Gibson		Oakwood, OH

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1. Odor Concerns

The smell is bad from the current barns. Sometimes it is so bad it gets in the house and our cars. We can no longer open our windows or doors. If they put two more barns up obviously I see the smell exponentially getting worse. There are no plans for any buffers, tree buffers or anything else, to try and help with the smell.

He has spread manure on Sundays and Wednesday nights right by a church. He should allow the church to have their services without that awful stench.

A neighbor lady had to wear a mask inside her home. She had to leave for the night, because she could not breathe. This was inside her own home. The smell permeated her home.

If he would take care of the odors I don't care how many barns he brings in. If he would take care of the odor. That is my issue.

I am about 1/2 mile straight west of this pig farm and when we have an east wind you cannot even open the windows without getting the house full of odors. I am also a 1/2 mile from another pig farm southwest of me and I have never smelled that pig farm. Pigs smell the same but yet I have one 1/2 mile away that I never smell and one that is 1/2 mile the other way and when I get the wind from that direction the smell would literally would raise the dead. There must be ways of containing, controlling those odors. And if he is doing this to us with 2 barns, if he gets 4 barns it



is going to be twice as bad. If he is going to stink up the place like that when there are things he can do then he should not be permitted to have any more.

Response:

Odor minimization is required by ODA rules in the Permit to Install and the Permit to Operate. In the Manure Management Plan of the draft Permit to Operate, Pessefall Farms has identified specific Best Management Practices listed in Ohio Administrative Code Rule 901:10-2-12 to minimize odor. These include removal and land application of manure when wind direction is less likely to affect neighboring residences and injection or incorporation of manure when at all possible.

Odor is something that will be evaluated during routine inspections and complaint investigations. Inspectors would determine if the permit was being followed and if the odor was occurring as a result of the producer not following Best Management Practices. If the permits are not followed, the farm could be subject to an ODA enforcement action.

2. Manure Management

When he was right across the road he was putting manure on so deep that the water was just running right across the top of the ground. Doesn't the county have any regulations on how he treats that stuff? I was in the hog business at one time. We had big pits in the floor and we would pump it out in a honey wagon and put on our fields. We had to treat that. They came over and told us we had to treat that. Don't you guys have anything to say about that?

He took his hose --which he should have ran through tile-- in front of people's homes to spread manure, so that neighbors have to park their cars on the road side along the ditch in order that Pesse can spread manure.

Response:

Allowing manure runoff from a field is not an accepted manure application procedure. If Pessefall Farms becomes a permitted farm, they will be required to follow an approved manure management plan. Under the ODA permits, manure is to 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. The land application of manure under the control of a concentrated animal feeding facility (CAFF) must also follow setbacks to protect waters of the state. For instance, a setback of 35 feet of vegetative buffer or 100 feet 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 requires that soil samples be taken at least every three years for every 25 acres or less of the planned land application areas. The department also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. An ODA inspector will conduct inspections of each ODA permitted farm and correlates the manure management plan with the data recorded in the operating record, such as the crop yields, annual manure analysis and new soil samples collected. See Ohio Administrative Code Rule (OAC) 901:10-2-10 for manure and OAC 901:10-2-13 for soils and testing frequency. If manure is distributed to a Certified Livestock Manager, then these records are also reviewed annually and all land application must be in compliance with department rules.



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 levels, and the available water capacity of the soil. 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), the application rate for phosphorus is determined using soil test data, the phosphate requirements for the planned crop or crop rotation, and either the phosphorus index risk assessment procedure in Appendix E, Table 1 or the phosphorus soil test risk assessment procedure in Appendix E, Table 2 of the rule.

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. OAC 901:10-2-14(C)(6). For most soil types, 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 24 hours after the start of land application.

By obtaining the Permit to Operate, the facility will become subject to all of the above ODA requirements. 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 facility is required to immediately notify the department of any discharge and begin immediate remediation and corrective measures to stop the discharge and prevent further discharges. Enforcement measures, including fines and penalties, are provided in rules and statute to address violations.

3. Facility Siting Criteria

With how the current plans are, the barns are supposed to be closer than 1,000 feet to our residence; we never signed for that to happen. How is that possible? According to the plans you are basing them on the shape of the old ponds. The new ponds are a lot bigger; the two barns are going to be closer to our property according to the map that we got up at Paulding at the Soil & Conservation.

Response:

Rule 901:10-2-02(L)(2) of the Ohio Administrative Code provides that a manure storage or treatment facility for liquid manure at a concentrated animal feeding facility shall be no closer



than one thousand horizontal feet from a neighboring residence. The farm hired a private surveyor to confirm that the residences to the northeast and northwest will be located a minimum of 1,000 feet from the new manure storage pits. Prior to pouring concrete, the facility should again confirm siting criteria from these neighboring residences. There is no new manure storage pond planned as part of this permit to install and the pond referred to in the comment is actually a clean storm water pond that is not regulated by ODA and had been enlarged at an earlier date. The new site map provided shows the approximate dimensions of the storm water pond. Rule 901:10-2-02(L)(2) allows for a signed agreement to be obtained from a neighboring residence if the 1,000 foot distance cannot be achieved and that was the case for the residence to the south of the proposed manure storage structures.

Comments That Received No Response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The areas that the ODA has been given authority over are very limited and are covered under the Permit to Install and Permit to Operate. ODA has not been given any statutory authority to regulate the following subject areas:

- Effect on neighboring property values
- Lack of consideration for neighbors
- Possible future plans for expansion beyond permit application
- Possible future law changes

Revisions from Draft Permit to Final Permit

1. A new site map has been submitted and provided in the Final Permit to Install that demonstrates all siting criteria from neighboring residences to the northwest and northeast have been met.

