

**OHIO DEPARTMENT OF AGRICULTURE  
LIVESTOCK ENVIRONMENTAL PERMITTING PROGRAM**

**Responsiveness summary to public comments on the Arts Dairy Farm  
draft permit to install modification and draft permit to operate  
July 15, 2003**

The Ohio Department of Agriculture issued a public notice on May 2, 2003, of Arts Dairy Farm's 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 June 3, 2003, to accept oral comments. The comment period ended at 5:00 p.m. on June 10, 2003. The table below outlines the comments received by ODA:

<b>No.</b>	<b>Date received</b>	<b>Name</b>	<b>Organization, if any</b>	<b>City, State</b>
1	6/3/03	Floyd Etzler		Convoy, Ohio
2	6/3/03	Theresa Fetter		Convoy, Ohio
3	6/3/03	Bill Dowler		Convoy, Ohio
4	6/3/03	Ollen Jones		Convoy, Ohio
5	6/3/03	Randy Pierce		Convoy, Ohio
6	6/3/03	Roger Knueve		Convoy, Ohio
7	6/3/03	Maureen Greulach		Payne, Ohio
8	6/3/03	Maria Pierce		Convoy, Ohio
9	6/3/03	Troy Greulach		Payne, Ohio
10	6/3/03	Brian Cox		Convoy, Ohio
11	6/3/03	Dave Greulach		Haviland, Ohio
12	6/3/03	Betty Morehead		Convoy, Ohio
13	6/3/03	Rodney Stemen		Spencerville, Ohio
14	6/3/03	Doug Jones		Venedocia, Ohio
15	6/3/03	Rick Mollenkopf	Township Trustee	Convoy, Ohio
16	6/3/03	Doug Germann		Van Wert, Ohio
17	6/3/03	Sandy Klinger		Convoy, Ohio
18	6/3/03	Jerald Brezovacki		Convoy, Ohio
19	6/3/03	Merle Cox		Convoy, Ohio
20	6/3/03	John Mathews		Scott, Ohio
21	6/3/03	Tom Gibson		Convoy, Ohio
22	6/3/03	Maurice Thornell		Convoy, Ohio
23	6/3/03	Clifton Pessefall		Convoy, Ohio
24	6/3/03	Mike Fetters		Convoy, Ohio
25	6/6/03	The Wise family		Convoy, Ohio
26	6/6/03	David and Nancy Speelman		Convoy, Ohio
27	6/9/03	Jim Henrey		Ohio City, Ohio
28	6/9/03	Dave Greulach		Haviland, Ohio

29	6/9/03	Troy and Maureen Greulach	Payne, Ohio
30	6/10/03	Randy and Maria Pierce	Convoy, Ohio
31	6/10/03	Hugh and Ruth Fifer	Convoy, Ohio

1. **Comment:** "...why was the public only informed of a meeting of expansion two weeks prior to final comments?" [1]

"We haven't had enough time to do our homework on this." [20]

**Response:** ODA not only followed state laws in providing an opportunity for the public to comment on the draft permits, but also went beyond the law by providing public education meetings and information to concerned neighbors and the press. According to state rules (Ohio Administrative Code 901:10-6-01) ODA placed a public notice (legal notice) in the May 2 issue of the Van Wert Times Bulletin newspaper. As a policy of the Livestock Environmental Permitting Program, news releases with information on the draft permits, the open house, the information session, and the public meeting were issued on May 2 to The Van Wert Times Bulletin, The Photo Star, and WERT/WKSD radio. Copies of the public notice, news release and fact sheet were also available on the Livestock Environmental Permitting Program's website. A copy of the public notice and a cover letter directing people to the website for more information were mailed to everyone who expressed interest on receiving information on permits for any farm in the state or Van Wert County. Placement on this list and notification is free of charge. Copies of the draft permits, public notice, news release and fact sheet were mailed to the Van Wert County Commissioners, Tully Township Trustees, Van Wert Soil and Water Conservation District office, and Van Wert County Health Department (OAC 901:10-6-01). An open house to answer questions about this permit was held on May 6.

On May 12, a news articles about the information session and the public meeting ran in the Van Wert Times Bulletin. On May 13, an article about the information session and public meeting ran in the Lima News. An information session about the draft permits was held on May 28. Earlier that day, WLIO Ch. 35 ran a news story about the draft permits. On May 29, a news story ran in the Van Wert Times Bulletin about the information session. On June 2, the Van Wert Times Bulletin ran a story about the expansion and the public meeting the next evening. On June 3, there was a public meeting on the draft permits (OAC 901:10-6-04). On June 4, the Lima News ran a story on the public meeting, which also stated the public comment period would be open until June 10. From the date of public notice to the end of the comment period was 39 days.

2. **Comment:** There are too many large (dairy) farms too close together. [1, 24, 27, 28, 29]

**Response:** In Ohio, local land use and zoning are typically issues regulated by local government, and generally agriculture is restricted from zoning. The key point to remember is that no farm is allowed to pollute the environment, not matter what its size or location.

Large livestock and poultry farms in Ohio, with only a few exceptions, are designed as zero discharge systems. In other words, they are required to be designed, built, and operated so that there are no leaks and no discharges of manure into the environment. They store manure in a holding pond, lagoon, or other type of storage or treatment facility, and then transport it to their crop or pasture land as fertilizer or sell it to another farmer for that use instead of commercial fertilizer. ODA requires each permitted farm to have a manure management plan, so the manure is distributed and recycled properly as a nutrient to the soil and growing plants.

Because the farm has whole farm manure management plans, we force the farmer to find adequate distribution for all his manure. Manure and soil testing determines how much manure should be applied to farm fields, and applying more is in violation of the laws. All lagoon or ponds are sited, constructed, and built to protect groundwater. Our routine inspections of farmers' actually applying manure, as well as inspections of all their records of manure application will track this and assure that they are distributing and using manure correctly.

3. **Comment:** Concerns over odors coming from the dairy farm. [1, 2, 3, 8, 11, 15, 18, 20, 21, 22, 23, 26, 28, 29, 31]

**Response:** Dairy farming, like any livestock or poultry farming, comes with some odors. There is not yet a proven, scientific technology to eliminate or measure odor. However, in their draft permit to operate (Part C9) Arts Dairy Farm has identified specific best management practices to minimize odor, including avoiding spreading manure on fields a short distance upwind from neighbors, considering holidays and weekends before applying manure on fields close to neighbors, and monitoring temperature, humidity, and general weather conditions during manure application as they relate to odor.

4. **Comment:** Concerns over water quality and the potential for contamination of the water supply. [1, 2, 8, 9, 10, 12, 18, 19, 22, 25, 26, 27, 28, 29]

**Response:** Just like most large livestock and poultry farms in Ohio, Arts Dairy is designed for zero discharge, or it is required to be designed, built, and operated so that there are no leaks and no discharges of manure into the environment. Arts Dairy Farm stores manure in a manure storage structure, which according to the rules [OAC 901:10-2-06 (A)(9)] is required to have hydraulic conductivity of at least  $1 \times 10^{-7}$  cm/sec, which is equivalent to 1.24 inches per year. Based on the geological exploration, the clay present provides 0.27 inches per year of moisture movement, or greater protection than the rules require. Also according to the geological exploration and verified by water well logs for the farm, the top of the local aquifer is 32 feet below the surface, and the deepest part of the manure storage pond is 14 feet below original grade of the land. Therefore, there is 18 feet between the bottom of the pond and the top of the aquifer, more than the 15 feet required by rule [OAC 901:10-2-02 (A)(1)(e)]. Arts Dairy is also requested to perform an annual water quality test as a part of this permit.

5. **Comment:** "...the facility was built and designed for 700 head of cattle...Does the EPA come back in and double-check this facility to make sure it is capable of withstanding this additional load?" [10]

**Response:** Due to a change in state law, the Ohio EPA no longer has the responsibility to implement state requirements for these farms. On August 19, 2002, the ODA Livestock Environmental Permitting Program began implementing new rules regulating Ohio's large livestock and poultry farms with more than 1,000 animal units. As part of routine inspections, ODA checks the actual number of animals to the number of animals authorized in the permit.

Most waste generated at Arts Dairy would be flushed into concrete sand separation storage structures on the east side of the facility. Manure wastewater is recycled through the buildings where manure is automatically scraped to flush flume pipes. Sand solids settle out in these multiple concrete storage structures, which can store approximately 239,000 cubic feet of

sand. These storage structures provide approximately 348 days of storage for the dairy barns that contribute manure to them. The liquid waste that would be contained in the last cell of the solid system would be pumped to the large manure storage pond located south of the barns. This large manure storage pond has a capacity of approximately 22 million gallons, which provides approximately 344 days of storage.

In addition to the requirements above in number 4 as a precautionary measure, Arts Dairy must dig a 4-foot deep exploratory trench around the existing lagoon and any tile present will be rerouted and documented. Also, four test borings at least 7 feet below the bottom of the pond were taken to confirm that the lower strata is suitable to prevent contaminants from migrating into the groundwater.

6. **Comment:** Concerns over loss of property values. [1, 2, 8, 22, 24, 26, 30, 31]

**Response:** Property tax valuation is a local issue typically administered by the auditor's office. To date, there is no scientific study to confirm or refute that property values fall when large, permitted livestock farms move into a community. However, many county auditors are discussing this issue and scrutinizing property sales in their areas. And the Ohio State University is currently researching this issue, and we look forward to their findings.

7. **Comment:** Concerns over the quantity of water being used and that the available water cannot support that use. [1, 28, 30, 31]

**Response:** Arts Dairy Farm estimates it will use 50,750 gallons of water per day, or 18,532,750 gallons per year. If a facility has the capacity to use greater than 100,000 gallons of groundwater per day, it is required to register with ODNR's Division of Water as required by Ohio Revised Code Section 1521.16. According to ODNR ground water availability maps and information, the aquifer in the area should adequately supply the water needs for this farm without negatively effecting surrounding neighbors.

8. **Comment:** Concerns about a runoff incident from the dairy and the way neighbors were notified. [2, 5, 8, 10, 24, 28, 30]

**Response:** ODA is aware of two instances of manure and silage leachate runoff issues regarding Arts Dairy farm, one on December 13, 2001, and a second on January 29, 2002. Because ODA was not the regulating agency at the time, issues with neighbor relations are unknown to us and are not in our purview. However, if an incident like this should occur in the future at any permitted facility, ODA will conduct an inspection to see if runoff is attributable to mismanagement or failure to comply with ODA rules and the permit's manure management plan. We would consider these comments in working with area residents.

9. **Comment:** Concerns over road repairs and roads falling apart from use due to the trucks coming and going from the dairy. [2, 4, 15, 25, 28, 29, 31]

**Response:** Local government authorities (township and county) are responsible for road repairs, even with an increased amount of trucks and traffic. Permit applicants to ODA are required to notify the board of county commissioners and the board of township trustees when an application is submitted, and Arts Dairy Farm fulfilled this requirement.

Farms can work with local governments to use Tax Increment Financing (TIF) or enterprise zone programs that set aside new tax dollars from property improvement. For large livestock

farms, this money can be returned to the county engineer for road improvement or to the local school district in the form of a gift. These arrangements must be worked out between the township trustees and county commissioners and the farm prior to construction.

10. **Comment:** Concerns over rumors in the community that Arts Dairy owes local farmers money and the farm might go bankrupt. [2, 8, 19, 27, 28, 29, 30]

**Response:** State law does not require financial statements as part of the permit to operate or permit to install. Therefore, this is not an area ODA can regulate. However, if the permit is granted as a final permit, the farm would be required to fulfill the obligations of that permit, such as manure application requirements and proper standards for construction. Inspections during construction and during operation of the farm will verify if this is being done. If the permits are not followed, the farm could be subject to an enforcement action by ODA.

11. **Comment:** "...it says in here that they have 1,400 acres available ...to apply the manure; and if that's so, ... is that an oral agreement? A written agreement? Can these people say, 'We don't want your manure?'" [3]

"With so many in the community having negative feelings about this, how will they get the 1,400 acres that is REQUIRED to spread the manure from 2,000 head of cattle?"[25]

"Supposedly Arts Dairy has 1,400 acres available to spread the manure on, but can they really prove this?" [29]

**Response:** As a part of the manure management plan, Arts Dairy has proposed manure application on 1,400 acres. When manure is applied as a nutrient to the soil and growing plants, manure and soil testing determines how much manure should be used. Many factors go into figuring application rates for manure and amount of land needed, so the acreage used may vary from the 1,400 acres proposed. However, routine inspections of the farm's records and of farmers' actually applying manure will track whether the farm is using manure correctly and if the farm has adequate manure distribution capacity. If the permit were approved, any violation of it would make the farm a target for enforcement.

12. **Comment:** "I guess my biggest concern is, no matter what any of us say here tonight, it doesn't matter. It's going to get passed." [7]

"We've been to many meetings concerning this issue and it seems this issue has already been cut and dried before the meeting ever takes place." [28]

"...but at the Question and Answer Session on Wednesday, May 28 these concerns were just shrugged off the officials that you sent to the meeting. The meeting was nothing more than a joke as we all know that there is really no way that we can stop this mega-dairy from expanding." [29]

**Response:** If there are written or oral comments on a draft permit to install or draft permit to operate, the director must take those comments into consideration before he makes a final decision to approve or deny the application (OAC 901:10-6-04). Comments must be limited to the criteria and information in the specific draft permits on which comments are being accepted (OAC 901:10-6-04). Therefore, the director cannot consider comments not related to this specific permit or comments related to things outside the regulatory jurisdiction of ODA when making his final decision on the permit.

When a permit to install or permit to operate application is received by the Livestock Environmental Permitting Program, it goes through an extensive technical and legal review with the farmer and person who prepared the permit to verify it is complete and meets or

exceeds the requirements in the laws and rules. When this review is complete, the permit is considered a “draft permit” and is noticed to the public for comment. Staff answers the public's questions on the permit as they relate to the rules. In the past, there have been changes to final permits because of comments received by the public during informal public education meetings or public comments received during formal public meetings.

13. **Comment:** Concerns over what will happen if the farm shuts down. [8, 23, 27, 30]

**Response:** If a farm owner wants to close a farm, he must present ODA with a Closure Plan. This plan outlines the procedures that will be used to properly close all or part of a manure storage or treatment facility. The plan must be submitted to ODA at least 90 days prior to closure, and ODA must approve that plan.

If a farmer fails to properly close his facility, he is liable in enforcement proceedings.

14. **Comment:** “The inspections ... I heard that that would happen twice a year. Is that really sufficient enough?” [8]  
“Two inspections a year is NOT sufficient to monitor the operations of a farm this size.” [25]  
“It appears the inspections check most of their items against the Operation Record. It appears they can write down whatever they'd like to satisfy an inspection.” [30]

**Response:** ODA's Livestock Environmental Permitting Program has two dedicated inspectors for the approximately 135 permitted farms in Ohio. Both inspectors are highly qualified and skilled at what they do, including education and experience with livestock production, nutrient management, and environmental and water quality training. Their time is dedicated to routine and complaint inspections. Twice a year is the minimum inspection frequency, but complaints or violations noted during regular inspections would lead to more inspections to ensure problems are fixed and/or violations are corrected.

The inspection form they use is 27 pages long and covers all aspects of the management of the farm. It is a big job, but the executive director of the Livestock Environmental Permitting Program and three agricultural engineers who all can and do inspect farms support them. ODA has committed to at least two routine inspections per farm per year – this is significantly better than the old system of no dedicated inspectors and engineers and no routine inspection program. To date, the Livestock Environmental Permitting Program staff has performed nearly five times the 25 inspections per year rate U.S. EPA suggests for Ohio. Inspections more frequently are not warranted on most farms. And when a farm has repeated, viable complaints or needs our attention on other issues, we are there more often than the “twice a year” minimum.

Not only do ODA's inspectors review the farm's records, they visually inspect every aspect of the farm's operation and management. With their education and practical background, erroneous notations in the operating record should be visible to the inspectors in the actual operation of the farm.

15. **Comment:** Concerns over the number of flies in the area. [9, 11, 22, 26, 28, 29, 31]

**Response:** In order to obtain a permit to operate from ODA, a large livestock or poultry farm is required to include an Insect and Rodent Control Plan with the permit application. The plan is required to address any pests, including flies, birds, muskrats, and raccoons, that might have

an adverse effect on an environmentally safe operation.

Arts Dairy Farm has an insect and rodent control plan as part of their draft permit to operate. On a weekly basis, the farm will monitor for flies in each of the barns. On a twice-monthly basis, rodent bait stations are checked. On a monthly basis, evidence of rodents is monitored around the barn perimeter. Seasonally or quarterly, areas are inspected for ponding water areas where insects may breed and are eliminated. Non-incorporated manure fields are checked for fly activity for three weeks after manure is applied for fly activity. Feed and manure spills are cleaned up promptly upon discovery and manure is removed from the barns multiple times per day via scraping or flushing to minimize insects and rodents. Actions to minimize insects and rodents are taken based upon observations during monitoring. The draft permit to operate contains the complete Insect and Rodent Control Plan.

16. **Comment:** "...my dad lives right out at Fort Jennings, and in retirement he's given up his cattle ... my brothers can take over the farm, but they can have a little paperwork wrote up; and if enough neighbors vote ... they can't have their 30 or 40 cattle in the barn; they have to remove them ... If my dad can't – my brothers can't keep cattle on their farm because people don't like the smell, why do [the Arts]?" [17]

**Response:** Although ODA is unfamiliar with the specifics of issue, it sounds like local zoning has changed since the family began farming in an incorporated rural area. The area in which the Arts Dairy is located does not have zoning restrictions and therefore is zoned for agriculture, so there are no animal restrictions for livestock farms.

17. **Concern:** "...the illness and sickness due to the gases escaping from the lagoons..."[22] "It should also be noted that all the lagoons should be capped or tarped because of the dangerous hydrogen sulfide poisoning." [28] "What is the State of Ohio going to do about the methane gas and hydrogen sulfide gases that are being put off by the lagoons?" [29]

**Response:** Deaths related to hydrogen sulfide and methane gases have most often been related to manure in confined spaces, like the deep manure pits under hog barns or in upright silos. These deaths are a tragedy and show that farming is a dangerous occupation, especially for farmers . But whether or not manure storage ponds and lagoons produce a substantial amount of gasses to travel through the open air for sometimes a mile or more and cause illness or death to someone off the farm is something we look to the medical and scientific communities to solve. And as research on these issues evolves, ODA looks forward to the findings.

18. **Comment:** "What exactly enticed our State of Ohio Government ... to 'beg' these mega-dairies to set up shop in rural communities of Ohio?" [29]

**Response:** Neither the State of Ohio nor ODA has actively recruited any type of large livestock farm to Ohio. Ohio is an attractive state in which to farm – it has a variety of natural resources and is close to food processors and consumers. Agriculture is the number one industry in Ohio. Now that Ohio has a progressive system to prevent environmental problems on our large livestock and poultry farms, with clear, concise, science-based rules to regulate them, it is logical that farm owners will want to take advantage of a state with a predictable regulatory system. And by law, ODA cannot deny a permit that meets all the requirements of the rules and law, where there has been no evidence found that it does not.

19. **Comment:** “The last time that ditch was cleaned, my mother was assessed for the entire length of the ditch from our property on. If we're expected to pay for ditch cleaning, then why is the county out there cleaning up the spill after the fact?” [10]

**Response:** Issues regarding assessments for work done by the county should be addressed to the county government. However, ODA conferred with the county engineer's office, who has the responsibility for these ditches, about this specific issue. They told us that the ditch was scheduled for routine clean out because the depth was impacting tile outlets, sediment, and cattail growth, and the clean out was not related to the dairy farm. Further questions can be directed to the county engineer's office.

20. **Comment:** “If the owners are not available or are away, and there would be an emergency or accident, is the staff capable of handling such an emergency? Can they speak English or read it? Are they able to do what is required?” [25]

**Response:** In order to obtain a permit to operate from ODA, a large livestock or poultry farm is required to include an Emergency Response Plan with the permit application. The plan is required to ensure accidents or emergencies are handled quickly and efficiently to maintain the safety of the environment, wildlife, and water supplies. The plan is a manual for all employees to make sure an emergency is addressed if the owner or supervisor is away. It is the farm's responsibility to make sure all employees can follow the plan or provide a bilingual copy if necessary.

The Arts Dairy Farm Emergency Response plan includes local emergency contact numbers for ambulance, fire department, county sheriff, and state agencies, as well as a contact number for the farm's owner and operator. It outlines actions to be taken in the event of a manure spill, manure runoff, fire, power outage, and serious injury to personnel.

21. **Comment:** “It has come to my attention that manure is being hauled in from another dairy operation to this one to be handled there ... Is this permitted? Is it going to continue?” [25]

**Response:** The Van Wert Soil and Water Conservation District office, which had jurisdiction over the farm at this time, is aware of the additional manure being hauled on a temporary basis to the Arts Dairy Farm, and ODA is also aware of the issue. Currently, there is not a need for this action to be permitted. If final permits would be granted to Arts Dairy Farm from ODA, the additional manure would be recorded in the operating record and would be required to be disposed of as outlined in the manure management plan.

22. **Comment:** “All my cats have died in the three years they've been here ... What about our animals? Is anything going to come back to us for us losing all our animals? We have lost dogs...” [2]

“It's kind of convenient that when [the Arts] moved in, all of a sudden my cats are getting sick and dying.” [24]

**Response:** At this time, there is no reason to believe that the deaths of animals at this neighboring residence are related to Arts Dairy Farm. If there would be evidence, such as from a veterinarian or necropsy, it can be brought up and settled between the neighbors and the Arts or possibly pursued through private legal action.

23. **Comment:** “...in regards to the individuals the Arts' employ ... Are they competent enough to under[stand]all the regulations they need to abide by?” [30]

**Response:** If a final permit would be granted, ODA's expectations are that the owner and/or operator fulfill the permit's requirements. The owner and/or operator have the responsibility to make sure employees properly carry out duties on the farm.