

Final Finding of No Significant Impact

C&H Hog Farms

Newton County, Arkansas

February 2016

Introduction

The United States Department of Agriculture Farm Service Agency (FSA) and the Small Business Administration (SBA) have jointly prepared an Environmental Assessment (EA), which is incorporated by reference, in response to the Court's holding in *Buffalo River Watershed Alliance v. United States Dep't of Agriculture*, No. 4-13-cv-450-DPM (Eastern District Arkansas), that the FSA and SBA issued guarantees to Farm Credit Services of Western Arkansas for that bank's loans to C&H Hog Farms for the construction of a privately owned hog farm near Mt. Judea in Newton County, Arkansas, without first fully complying with the National Environmental Policy Act (NEPA). In accordance with the Court's ruling, the EA examined the environmental effects of C&H Hog Farms.

C&H Hog Farms is a Concentrated Animal Feeding Operation (CAFO) located in Newton County, Arkansas. CAFOs are regulated by the United States Environmental Protection Agency under the Clean Water Act to control the discharge of pollutants into surface waters through issuance of National Pollutant Discharge Elimination System (NPDES) Permits, which include extensive operating requirements designed to reduce and eliminate adverse impacts.

In 2012, the owners of C&H Hog Farms applied for loans from Farm Credit Services of Western Arkansas, a lender which then sought guarantees from the SBA and FSA. Using the loans, the owners of C&H Hog Farms purchased 23.43 acres and on that site, constructed gestational and farrowing barns and two ponds, which store waste that is used as fertilizer on nearby land. Construction began in December of 2012, operations began in April of 2013, and land application of fertilizer derived from the farm began in late December 2013. In August of 2013, environmental groups filed a complaint against the SBA and the FSA and in December of 2014, the Court enjoined the Agencies from making payment on their loan guarantees, should the owners default on their loans, until the Agencies comply fully with NEPA and the Endangered Species Act.

Proposed Action and Alternatives

The No Action Alternative would vacate Federal loan guarantees from SBA and FSA. Under this Alternative, C&H Hog Farms and its lender, Farm Credit Services of Western Arkansas, would be free to continue their financial relationship without Federal guarantees and C&H Hog Farms could continue its operations in compliance with its NPDES General Permit. Operations are detailed in Section 2.1 of the EA and include: the operation of the farm, which can house up to 6,503 swine in two barns; collection of waste and wash water from the facility in engineered holding ponds that exceed regulatory requirements; application of wastes as fertilizer to nearby hay fields and pasture in accordance with

strict terms of the farm's NPDES General Permit; and adherence to a number of reporting, maintenance, and operations requirements.

The Proposed Action would continue the Federal guarantees from the SBA and the FSA to loans made to C&H Hog Farms. Operations, land application of fertilizer, maintenance, reporting requirements, and operating requirements, which currently occur in compliance with the farm's NPDES General Permit, would continue. Consistent with the Purpose and Need, no other alternatives were considered in detail.

Reasons for Finding of No Significant Impact

In consideration of the analysis documented in the EA and in accordance with the Council on Environmental Quality regulations, FSA and SBA have determined that the proposed action would not constitute a major Federal action significantly affecting the human and natural environment. This determination is based on the analysis detailed in Chapter 3 of the EA, including the following:

1. Water quality data collected before and after operation of the farm began and at sites upstream and downstream from the farm, as well as data collected by a study designed specifically to monitor the water quality effects of the farm, show no evidence of adverse impacts. Concentrations of toxic organic and inorganic compounds monitored downstream of the farm are not at levels expected to cause mortality or sub-lethal effects to freshwater bivalves or aquatic invertebrates. Since the application of fertilizer from C&H Hog Farms is more closely managed under the NPDES General Permit requirements, there is the potential for improved water quality conditions, as historically fields have been fertilized at rates not governed by such requirements.
2. Setbacks from wetlands and closely managed application of fertilizer are required by the farm's NPDES General Permit. Therefore, runoff of nutrients into wetland areas is unlikely and no direct or indirect impacts to wetlands are anticipated.
3. No significant direct or indirect impacts to groundwater quality are expected based on protections provided by adherence to the farm's NPDES General Permit requirements.
4. No impacts to soils or geology would result from farm operations.
5. The United States Fish and Wildlife Service concurs that the farm operations are not expected to adversely affect threatened and endangered species.
6. The operation of C&H Hog Farms does not violate the Buffalo River Enabling Act, as the farm is not a water resources project. Based on water quality data, as well as park visitation metrics since the farm began operating, no impacts to the Buffalo National River are anticipated.
7. The proposed action would not result in significant odor impacts since agriculture, including grazing, pasture management, and application of manure as fertilizer, are not unusual in the area. The farm employs a number of best management practices to reduce or control odor, and there have been few complaints.
8. Operation of C&H Hog Farms would not significantly affect the demography, population, income, employment, government revenues, or expenditures in the region. The farm provides the community with nine jobs, annual property taxes, and contributes to the local farm economy by supplying fertilizer to nearby producers, providing local options and reducing input costs to those producers.

9. There would be no disproportionate effects to low-income populations because the operation of C&H Hog Farms within the terms of its NPDES General Permit and other environmental regulations to protect public health and welfare effectively prevent significant impacts.
10. The proposed action would not adversely affect sites eligible for listing in the National Register of Historic Places.
11. The proposed action's contribution to cumulative impacts of other past, present or foreseeable future actions are not expected to be significant.

Public Availability of FONSI

Prior to making a final determination, the Final EA and Draft FONSI were made available for public review for 30 days in compliance with 40 CFR 1501.4(e)(2). A one week extension was granted at the request of the public. Notifications were published in newspapers and copies were made available at the Arkansas State FSA office, the Boone County FSA office, the Newton County Library, and on the FSA NEPA website (http://www.fsa.usda.gov/programs-and-services/environmental_cultural_resource/nepa/current-nepa_documents/index). Written comments were accepted by mail at: C&H Hog Farms EA, c/o Cardno, Inc., 501 Butler Farm Road, Suite H, Hampton, VA 23666; and by email at: CHHogFarmComments@cardno-as.com.

Determination

Based on the analysis and information contained in the EA prepared for this proposed action, it is my determination that the subject proposal will not significantly affect the quality of the human and natural environment and does not constitute a major Federal action significantly affecting the quality of the human and natural environment. Therefore, the preparation of an Environmental Impact Statement is not necessary. I also find that the EA properly documents the proposal's compliance with environmental laws and requirements listed therein.

Approved

 2/18/16

Val Dolcini
Administrator, Farm Service Agency

 2-18-16

John A. Miller
Deputy Associate Administrator, Small Business Administration Office of Capital Access