

ADEQ

ARKANSAS
Department of Environmental Quality

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (91 7199 9991 7035 3560 8184)

FEB 15 2017

Jason Henson
C&H Hog Farms, Inc.
HC 72 Box 2
Vendor, AR 72683

RE: Permit Number 5264-W; AFIN 51-00164

Dear Mr. Henson:

Enclosed are the draft public notice, Statement of Basis, and a copy of the draft permit which the Arkansas Department of Environmental Quality prepared under the authority of the Arkansas Water and Air Pollution Control Act. A copy of the final permit will be mailed to you when the Department has made a final permitting decision.

The enclosed public notice will be published by ADEQ in the newspaper of general circulation. An invoice for the cost of publishing the public notice and proof of publication will be sent to you by the advertising newspaper. The permittee must send proof of publication and payment to the address below as soon as possible but no later than 30 days after its publication. Until this Department receives proof of publication of the public notice, no further action will be taken on the issuance of your no-discharge permit.

Comments must be received at ADEQ prior to the close of the public comment period as described in the enclosed public notice. The public comment period will begin on the day of publication and will end 30 days after that date. Once a final permit is issued by the Director and becomes effective, the permittee must comply with all terms and conditions of the permit, or be subject to enforcement actions for any instances of noncompliance during the duration of the permit. Consequently, it is imperative that you, as the applicant, thoroughly review the enclosed documentation for accuracy, applicability, and your ability to comply with all conditions therein.

Should you have any questions concerning any part of the permit, please feel free to contact Katherine McWilliams of the Permits Branch at (501) 682-0651.

Sincerely,



Caleb J. Osborne
Associate Director, Office of Water Quality

CJO:km

Enclosure

PUBLIC NOTICE OF DRAFT NO-DISCHARGE PERMIT
PERMIT NUMBER 5264-W
AFIN 51-00164

This is to give notice that the Arkansas Department of Environmental Quality (ADEQ) Office of Water Quality proposes a draft permit for which an application was received on April 7, 2016 with additional information received on June 29, 2016 for the following applicant under the Arkansas Water and Air Pollution Control Act.

Applicant: C&H Hog Farms, Inc., HC 72 Box 2, Vendor, AR 72683. Location: HC 72 Box 2; Latitude: 35° 55' 30.47" N Longitude: 93° 4' 18.42" W in Newton County. The land application sites are on numerous farm fields in Newton County. For a more detailed description of the locations for each land application site, refer to Part II of the draft permit, the Nutrient Management Plan, or information received June 29, 2016. These documents may be accessed by searching the permit number listed above at the following website:

<http://www.adeq.state.ar.us/home/pdssql/pds.aspx>

This draft permit is for the storage and land application of liquid waste from a swine facility in accordance with Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 5.

ADEQ's contact person for submitting written comments, requesting information regarding the draft permit, or obtaining a copy of the permit and the Statement of Basis is Katherine McWilliams, at 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317, (501) 682-0648, or at Water-Draft-Permit-Comment@adeq.state.ar.us. For those with internet access, a copy of the proposed draft permit may be found on the ADEQ's website at www.adeq.state.ar.us.

The last day of the comment period is 30 days after the publication date at 4:30 p.m. Central Time, which is on Friday, March 17, 2017. If the last day of the comment period is a Saturday, Sunday or legal holiday, the public comment period shall expire on the next day that is not a Saturday, Sunday or legal holiday. For information regarding the actual publication date along with the actual date and time the comment period will end, please contact Katherine McWilliams at the above address and telephone number or by email at Water-Draft-Permit-Comment@adeq.state.ar.us. The staff member listed above may be contacted for the actual publication date and the exact date and time for the comment deadline.

Public Meeting and Hearing

A public meeting and hearing will be held March 7, 2017 beginning at 6:00 p.m. Central Time at the Jasper School District Cafetorium, 600 School Street, in Jasper, AR in Newton County to accept comments on the draft permit. Written and oral statements may be submitted regarding the draft permit to the Hearing Officer for consideration at the Public Hearing. In the event of inclement weather or other unforeseen circumstances, a decision may be made to postpone the hearing. If the hearing is postponed and rescheduled, a new legal notice will be published to announce the details of the new hearing date and comment period.

Comments and public hearing procedures may be found at Regulation No. 8 (Administrative Procedures). All persons, including the permittee, who wish to comment on ADEQ's draft decision to modify the permit must submit written comments to ADEQ, along with their name and mailing address. After the public comment period and public hearing, ADEQ will issue a final permitting decision. ADEQ will notify the applicant and each person who has submitted written comments or requested notice of the final permitting decision. Any interested person who has submitted comments may appeal a final decision by ADEQ in accordance with the Regulation No. 8.

**AUTHORIZATION FOR A NO-DISCHARGE WATER PERMIT UNDER THE
ARKANSAS WATER AND AIR POLLUTION CONTROL ACT**

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act
(Ark. Code Ann. § 8-4-101 *et seq.*)

C&H Hog Farms, Inc.

is authorized to store and land apply liquid waste from a swine facility on sites listed in
Condition No. 7 of Part II of the permit for a facility located at HC 72 Box 2 Vendor, Arkansas
72683 in Newton County at the following coordinates:

Latitude: 35° 55' 30.47" N Longitude: 93° 4' 18.42" W

The facility is located in Stream Segment 4J of the White River basin.

Operation shall be in accordance with all conditions set forth in the permit.

Effective Date:

Expiration Date: N/A

Caleb J. Osborne
Associate Director, Office of Water Quality
Arkansas Department of Environmental Quality

Issue Date

Part I
Monitoring Requirements

The following tables detail the monitoring frequencies and the requirements for reporting results to the ADEQ for each respective parameter listed in the table heading.

TABLE I		
Waste Analysis		
Parameter ¹	Limits (Reporting Units)	Monitoring Frequency
pH	Report (S.U.)	Once per calendar year (January – December)
Percent Solids	Report (Percentage (%))	
Total Phosphorus	Report (mg/L)	
Soluble Phosphorus		
Total Nitrogen		
Potassium	Report (gal/acre)	Per application
Application Rate		

¹ See Part II Specific Condition Nos. 20 and 21.

TABLE II		
Soils		
Parameter	Limit (Reporting Units)	Monitoring Frequency
pH	Report (S.U.)	Once every five (5) years from the effective date of the permit per land application site
Phosphorus	Report (mg/kg)	
Potassium		
Nitrates		

TABLE III		
Interceptor Trenches		
Parameter	Limit (Reporting Units)	Monitoring Frequency ¹
Total P	Report (mg/L)	Once per quarter, when water is present ²
Ammonia-N		
Nitrate-N		
E. coli	Report MPN/100mL	
pH	Report (S.U.)	
Alkalinity	Report (mg/L)	
Chloride		
Electrical Conductivity	Report (uS/cm)	

¹Frequency of monitoring may be reduced in accordance with Condition No. 26 of Part II requirements.

²Quarterly monitoring requirements may be satisfied by submission of data provided by the University of Arkansas Division of Agriculture Research and Extension.

Part II
Specific Conditions

1. This permit is for the storage and land application of liquid swine manure and is subject to Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 5 in its entirety.
2. Waste shall not be discharged from this operation to the Waters of the State or onto the land in any manner that may result in ponding or runoff to the Waters of the State. [Reg. 5.303]
3. No liquid animal waste management system shall be constructed, modified, or placed into operation unless in accordance with final design plans and specifications approved by the Department. [Reg. 5.401]
4. Land application rates shall be determined in accordance with the April 6, 2016 Nutrient Management Plan (NMP) and June 29, 2016 Addendum. The NMP submitted for the waste removal operation is hereby incorporated into this permit by reference. As a result, all provisions and information contained in the NMP become enforceable conditions of this permit. If the NMP is inconsistent with this permit, the waste removal system shall be operated in accordance with the terms of the permit and the NMP shall be revised to conform to the permit conditions.
5. The permittee shall determine if the land application sites listed below are currently permitted or used by another user. In the event that the Department determines that any land application site under this permit is permitted for land application under another Office of Water Quality Permit, the Department may void this permit or enforcement action may be taken.
6. Unless otherwise specified, methods and timing of sampling and analysis described in this permit must be in accordance with the University of Arkansas Cooperative Extension Service guidelines. [Reg. 5.407(D)]
7. All land application of waste must occur only on approved land application sites listed below or transferred and land applied to other approved and permitted land application sites.

Land Application Sites								
Field	Field Owner	New/ Existing	Section(s)	Township	Range	Acreage	Latitude	Longitude
1	Jason Henson	Existing	25	15N	20W	8.4	35°55'1.349"N	93°3'32.372"W
2	Jason Henson	Existing	25	15N	20W	6.0	35°54'55.793"N	93°3'43.637"W
3	Charles Campbell	Existing	25/26	15N	20W	15.2	35°54'59.383"N	93°3'53.07"W
4	Jason Henson	Existing	36	15N	20W	7.2	35°54'49.65"N	93°3'39.78"W
5	Louetta/Glen Ricketts	New	23	15N	20W	9.7	35°55'53.941"N	93°4'30.114"W
6	Louetta/Glen Ricketts	New	26	15N	20W	5.6	35°55'48.19"N	93°4'49.381"W
6A	Shawn Ricketts	New	26	15N	20W	7.9	35°55'42.631"N	93°4'27.597"W
7	E.G. Campbell	Existing	26	15N	20W	64.3	35°55'24.9"N	93°4'12.854"W
7A	E.G. Campbell	New	26	15N	20W	28.3	35°55'27.002"N	93°4'14.499"W
8	Charles Campbell	Existing	26/35	15N	20W	7.2	35°54'56.821"N	93°4'7.519"W
8A	Charles Campbell	Existing	35	15N	20W	1.4	35°54'45.295"N	93°4'17.42"W
9	Charles Campbell	Existing	35	15N	20W	25.2	35°54'43.111"N	93°4'18.724"W
9A	Charles Campbell	Existing	26/35	15N	20W	10.3	35°54'56.223"N	93°4'2.05"W
10	Fayma Dickey	Existing	35	15N	20W	14.1	35°54'42.431"N	93°4'18.767"W
10A	Billy F. Cheatham	Existing	35	15N	20W	16.4	35°54'30.331"N	93°4'10.843"W

Land Application Sites								
Field	Field Owner	New/ Existing	Section(s)	Township	Range	Acreage	Latitude	Longitude
11	Fayma Dickey	Existing	35	15N	20W	14.2	35°54'33.004"N	93°4'22.582"W
12	Robert Flud	Existing	35	15N	20W	11.4	35°54'13.541"N	93°4'15.143"W
13	Charles Campbell	Existing	2	14N	20W	11.6	35°53'56.972"N	93°4'21.856"W
13A	Charles Campbell	Existing	35/2	15N/14N	20W	30.7	35°53'59.62"N	93°4'35.599"W
13B	Charles Campbell	Existing	35	15N	20W	8.6	35°54'3.407"N	93°4'20.307"W
14	Charles Campbell	Existing	35	15N	20W	8.1	35°54'22.791"N	93°4'38.516"W
15	Clayel Criner	Existing	2	14N	20W	22.5	35°53'47.015"N	93°4'46.334"W
15A	Clayel Criner	New	2	14N	20W	10.4	35°53'52.182"N	93°4'54.416"W
15B	Clayel Criner	Existing	2	14N	20W	15.0	35°53'43.458"N	93°5'2.42"W
16	Barbara Hefley	Existing	2	14N	20W	15.2	35°53'35.201"N	93°4'38.587"W
17	Jason Criner	Existing	34/35 2/3	15N 14N	20W 20W	31.9	35°53'55.374"N	93°5'3.665"W
18	Murl Bryant	New	25	15N	20W	22.6	35°55'32.715"N	93°3'27.778"W
19	Murl Bryant	New	25	15N	20W	10.3	35°55'37.349"N	93°3'34.212"W
20	Rondal Campbell	New	35	15N	20W	21.6	35°54'45.772"N	93°4'17.971"W
21	Rondal Campbell	New	35	15N	20W	20.3	35°54'35.005"N	93°4'59.439"W
21A	Rondal Campbell	New	34	15N	20W	15.6	35°54'44.478"N	93°5'10.85"W
21B	Rondal Campbell	New	35	15N	20W	6.0	35°54'48.234"N	93°4'54.343"W
22	Kelis Campbell	New	26	15N	20W	35.5	35°55'9.687"N	93°4'50.239"W
23	Greg Grice	New	22	15N	20W	28.1	35°56'27.709"N	93°5'43.327"W
24	Donald Haddock	New	23	15N	20W	8.0	35°55'59.004"N	93°4'35.322"W
32	Howard Criner	New	22	15N	20W	10.0	35°56'26.454"N	93°5'22.606"W
33	Howard Criner	New	22	15N	20W	4.0	35°56'32.636"N	93°5'16.715"W
34	Rondal Campbell	New	26	15N	20W	13.5	35°55'2.033"N	93°4'42.775"W
35	C & H Hog Farms, Inc.	New	25	15N	20W	18.4	35°55'10.6"N	93°3'14.369"W
36	C & H Hog Farms, Inc.	New	25	15N	20W	9.3	35°55'19.23"N	93°3'1.819"W

8. Land application shall only take place on fields that are classified as Low or Medium classes in accordance with the Arkansas Phosphorus Index (API).
 - a) The API shall be used to determine the phosphorus application rate prior to land application based on the most recent waste analysis from Part I Table I, soil analysis from Part I Table II, and the current field management practices. The most variable inputs to the evaluation process include: manure application rate; manure total and soluble phosphorus concentrations; application timing; application method; soil test phosphorous concentrations and land use.
 - b) For fields that are assigned Low or Medium risk values in the API, waste shall be applied at a rate equal to or less than the rate used to develop the risk category. This rate must also not exceed the recommended nitrogen application rate.
9. Waste shall not be land applied where land application is prohibited by Arkansas Department of Health regulations for the protection of public water supplies. [Reg. 5.406(F)]
10. Reserved
11. Animal mortality shall be managed in accordance with Section 1 of the approved NMP. [Reg. 5.402 (A)]

12. The permittee must take all reasonable and necessary measures to minimize obnoxious and offensive odors. In accordance with Section 1 of the NMP, the facility will focus on the following management practices: Animal Cleanliness, Minimize Dust, Waste Storage Facility Maintenance, Proper Disposal of Mortality, Natural Barriers, and Land Application Practices. [Reg. 5.405(A)]
13. Waste storage basin liners must be maintained in accordance with the NRCS Field Office Technical Guide and Section 2 of the NMP. [Reg. 5.402]
14. Waste shall be evenly distributed over application sites at the rates specified in site management plan. [Reg. 5.406(A)]
15. Waste must not be land applied when the soil is saturated; frozen or covered with ice or snow; when significant precipitation is reasonably anticipated in the next 24 hours; or during a precipitation event. [Reg. 5.406(B)]
16. Waste/wastewater shall not be applied on slopes with a grade of more than fifteen percent (15%) or in any manner that will allow waste to enter Waters of the State or to run onto adjacent property without the written consent of the affected adjacent property owner. [Reg. 5.406(C)]
17. Waste must not be land applied within 100 feet of streams including intermittent streams, ponds, lakes, springs, sinkholes, rock outcrops, wells and water supplies; or 300 feet of extraordinary resource waters as defined by the Department's Regulation No. 2. Buffer distances for streams, ponds and lakes must be measured from the ordinary high water mark. [Reg. 5.406(D)]
18. Waste must not be land applied within 50 feet of property lines or 500 feet of neighboring occupied buildings existing as of the date of the permit. The restrictions regarding property lines or neighboring occupied buildings may be waived if the adjoining property is also approved as a land application site under a permit issued by the Department or if the adjoining property owner consents in writing. [Reg. 5.406(E)]
19. All boundaries cited in Condition Nos. 17 and 18 of Part II of the Permit shall be identified as stated in the Nutrient Management Plan.
20. The Annual Report for the previous year must be submitted to the Department prior to May 30 of each year (i.e. The Annual Report is due on May 30, 2018 for the 2017 calendar year). The Annual Report must include the following: waste and soils analyses as described in Part I; and the location (land application sites), volume of waste applied, nitrogen and phosphorus application rates, method of waste application and type of crop(s) grown for each waste application site. Any other reports also required by this permit must be submitted with the Annual Report. The API calculations used to determine phosphorus application rates must be submitted with the Annual Report. Reports must be submitted on forms provided by the Department. [Reg. 5.407(E)]
21. Records must be kept of all land applied waste and must include, at a minimum, the following: date of application; weight and/or volume applied; waste destination; and number of acres over which the waste was applied. All records and logs shall be kept at the facility and provided to the Department upon request. [Reg. 5.407(A)]
22. The permittee shall keep current records on the waste shipped from the facility to another facility permitted to receive swine waste from other sources for land application. The records kept must include: source (Pond 1 or Pond 2), volume of the waste shipped; the name and permit number of the

receiving facility; and the shipping date. All records pertaining to the shipment of waste must be kept at the facility and provided to the Department upon request. The volume of waste shipped annually to other facilities must be submitted with the Annual Report required by Condition No. 20 of Part II of the permit.

23. Should the facility covered by this permit cease operations, the permittee must submit to the Department a closure plan for the waste storage/treatment structure(s) within sixty (60) days of the final day of operation for Department review and approval. Within ten (10) days of completion of closure activities, the permittee must submit certification that the facility was closed in accordance with the approved plan. [Reg. 5.701(A)]
24. The NMP shall be reviewed annually by the operator. An updated waste management plan shall be submitted to ADEQ the Department when significant changes are made or as required by the Department. The updated waste management plan shall include the soils analysis sampled and analyzed per Reg. 5.407(C). [Reg. 5.405(C)]
25. The permittee shall visually inspect the levees annually and report the condition as well as any repairs completed with the Annual Report due prior to May 30 of each year.
26. The permittee shall monitor the interceptor trenches on the lower slope of the waste storage ponds quarterly for the parameters listed in Part I Table III and submit the results with the Annual Report due prior to May 30 of each year. The permittee may submit data collected by the University of Arkansas Division of Agriculture Research and Extension to satisfy these reporting requirements during the on-going monitoring and research study. The permittee may request in writing a monitoring frequency reduction from quarterly to annual after three years of monitoring by the permittee following the conclusion of the monitoring and research study. The request for monitoring frequency reduction must demonstrate there has been no statistically significant change in the monitoring results for all parameters identified in Table III Part I.
27. The permittee may submit a minor modification request in accordance with APC&EC Regulation 5.306 including an updated NMP, as needed, no later than 12 months from the effective date of this permit to incorporate all fields that are permitted to receive waste from the permittee. Any period of delay resulting from any and all administrative and legal proceedings, including but not limited to permit appeals, shall be excluded in computing the time for purposes of this specific condition.
28. The permittee is authorized to construct and operate synthetic liners and geotextile base material in Waste Storage Ponds 1 and 2 provided the work is commenced within 24 months from the effective date of this permit. The installation shall be performed consistent with the design, plans, and specifications previously approved by the Department in the permit modification approved by the Department on March 25, 2016. Alterations to the design, plans, or specifications may be approved as a minor modification in accordance with Reg. 5.306. Any period of delay resulting from any and all administrative and legal proceedings, including but not limited to permit appeals, shall be excluded in computing the time for purposes of this specific condition.
29. Following completion of the installation detailed under Condition No. 28 and prior to resuming operation of the storage ponds, certification by a professional engineer licensed in the state of Arkansas that in the installation was conducted in accordance with the approved plans and specifications must be submitted to the Department. [Reg. 5.501]

**Part III
Standard Conditions****1. Duty to Comply**

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq. and is grounds for civil and administrative enforcement action; for permit termination, revocation and reissuance, or modification; or for rejection of a permit renewal application.

2. Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq. provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than twenty-five thousand dollars (\$25,000) or both for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3. Permit Actions

A. This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- i. Violation of any terms or conditions of this permit;
- ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- iii. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- iv. Failure of the permittee to comply with the provisions of Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 9 (Permit fees).

B. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

4. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq.

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act and Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

6. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

8. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provisions of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9. Permit Fees

The permittee shall comply with all applicable permit fee requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APCEC Regulation No. 9 (Regulation for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR Parts 122.64 and 124.5(d), as adopted in APCEC Regulation No. 6 and the provisions of APCEC Regulation No. 8.

10. Proper Operation and Maintenance

- A. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- B. The permittee shall provide an adequate and trained operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

11. Duty to Mitigate

The permittee shall take all reasonable steps to prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health, the environment, or the water receiving the discharge.

12. Removed Substances

Solids removed in the course of treatment or control of waste shall be discarded or land applied in a manner such as to prevent any pollutant from such materials from entering the Waters of the State.

13. Reporting of Violations and Unauthorized Discharges

A. Any violations to this permit must be reported to the Enforcement Branch of the Department immediately. Any leaks or seeps shall be reported to the Department and appropriately corrected. Any discharge from the storage system such as an overflow, a broken pipe, etc., shall be immediately reported to the Department.

B. The operator shall visually monitor and report immediately (within 24 hours) to the Enforcement Branch any unauthorized discharge from any facility caused by dike or structural failure, equipment breakdown, human error, natural event, etc., and shall follow up with a written report within five (5) days of such occurrence. The written report shall contain the following:

- i. A description of the permit violation and its cause;
- ii. The period of the violation, including exact times and dates;
- iii. If the violation has not been corrected, the anticipated time expected to correct the violation; and
- iv. Steps taken or planned to reduce, eliminate, and prevent the recurrence of the violation.

C. Reports shall be submitted to the Enforcement Branch at the following address:

Arkansas Department of Environmental Quality
Office of Water Quality, Enforcement Branch
5301 Northshore Dr.
North Little Rock, Arkansas 72118
Fax (501) 682-0880

Or by email to:

Water-Enforcement-Report@adeq.state.ar.us

14. Penalties for Tampering

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq. provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and

upon conviction thereof shall be subject to imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

15. Laboratory Analysis

All laboratory analyses submitted to the Department shall be completed by a laboratory certified by the Department under Ark. Code Ann. § 8-2-201 *et seq.* Analyses for the permittee's internal quality control or process control do not need to be performed by an ADEQ certified laboratory.

16. Retention of Records

The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

17. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit,
- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance any substances or parameters at any location.

18. Planned Changes

The permittee shall give notice and provide the necessary information to the Director for review and approval prior to any planned physical alterations or additions to the permitted facility.

19. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

20. Transfers

The permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

21. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying; revoking and reissuing or

terminating this permit; or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit. Information shall be submitted in the form, manner and time frame requested by the Director.

22. Signatory Requirements

- A. All applications, reports or information submitted to the Director shall be signed and certified. All permit applications shall be signed as follows:
- i. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including: having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - ii. For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or
 - iii. For a municipality, State, Federal, or other public agency; by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency, or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- B. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- i. The authorization is made in writing by a person described above.
 - ii. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - iii. The written authorization is submitted to the Director.
- C. Any person signing a document under this section shall make the following certification: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified

personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

23. Availability of Reports

Except for data determined to be confidential under the Arkansas Trade Secrets Act, Ark. Code Ann. § 4-75-601 et seq., all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Environmental Quality. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

24. Penalties for Falsification of Reports

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to civil penalties and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq.

25. Applicable Federal, State, or Local Requirements

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable Federal, State, or local statute, ordinance policy, or regulation.

Part IV
Definitions

“Act” means the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.) as amended.

“APC&EC” means the Arkansas Pollution Control and Ecology Commission.

“Available Acreage” means total acreage minus buffer zones

“Confined Animal Operation” means any lot or facility where livestock, fowl, or other animals have been, are or will be stabled or confined and fed or maintained and where crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over significant portions of the lot or facility.

“Nutrient Management Plan (NMP)” is a conservation plan for animal feeding operation (AFO), consisting of a group of conservation practices and management activities and is site-specific for the farm.

“Department” means the Arkansas Department of Environmental Quality (ADEQ).

“Director” means the Director of the Arkansas Department of Environmental Quality.

“Liquid Animal Waste Management System” means any system used for the collection, storage, distribution, or removal of animal waste in liquid form generated by a confined animal operation.

“NRCS” means the Natural Resources Conservation Service

“Ordinary High Water Mark” means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a cleat, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

“s.u.” means standard units.

“Waters of the State” means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of this state as defined by the Act.

STATEMENT OF BASIS

This Statement of Basis is for information and justification of the permit monitoring requirements as well as other conditions in the permit only and is not enforceable. This draft permit decision is for issuance of a no-discharge facility under draft permit number 5264-W and AFIN 51-00164.

1. Permitting Authority

Arkansas Department of Environmental Quality
Office of Water Quality, Permits Branch
5301 Northshore Dr.
North Little Rock, Arkansas 72118-5317

2. Applicant

C&H Hog Farms, Inc.
HC 72 Box 2
Vendor, AR 72683

3. Permit History/ Activity

- A. Permit Tracking No. ARG590001 was issued to C & H Hog Farms, Inc. The original coverage date was August 3, 2012.
- B. Permit Tracking No. ARG5900001 was substantially modified on June 6, 2014 to allow for land application via Vac Tanker method on Fields 7-9.
- C. Permit Tracking No. ARG5900001 was substantially modified on May 5, 2015 to allow for land application of wastewater from Waste Storage Pond 2 via tanker wagon.
- D. Permit Tracking No. ARG5900001 was substantially modified on March 21, 2016 to allow the installation of pond liners in Waste Storage Ponds 1 and 2 as well as install a methane flare system and cover on Waste Storage Pond 1.

The permittee submitted a permit issuance application for a no-discharge permit, which was received on April 7, 2016 with additional information received on June 29, 2016. The facility is applying for an administrative change in coverage from under NPDES General Permit ARG590000 for Concentrated Animal Feeding Operations to a no-discharge permit. It is proposed that the water no-discharge permit be issued.

4. Facility Location

The facility is located as follows: HC 72 Box 2 near the community of Mount Judea in Newton County, Arkansas. The facility is located at the following coordinates:

Latitude: 35° 55' 30.47" N Longitude: 93° 4' 18.42" W

5. Waterbody Evaluation

The facility is located in Stream Segment 4J of the White River basin, which is not in the Nutrient Surplus Area. Surrounding areas were evaluated to determine if any Extraordinary Resource Waters

(ERWs), Ecologically Sensitive Waterbodies (ESWs), Natural or Scenic Waterways (NSWs), or waterbodies in the 2008 ADEQ 303(d) list of impaired waterbodies in the State of Arkansas are near the land application sites. It was determined that the sites are approximately 4.7 miles or more from the Buffalo River, which is listed as ERW and NSW. The following are some measures required by the conditions of the permit to protect against the migration of pollutants:

- A. The sites utilize the Arkansas Phosphorus Index (API) to minimize nutrients from entering Waters of the State, and land application will only occur on fields with an API risk value of medium or low in accordance with Condition No. 8 of Part II of the permit.
- B. The facility must maintain either 100 ft or 300 ft buffers in accordance with Condition No. 17 of the Part II of the permit.
- C. Waste cannot be land applied when the soil is saturated; frozen or covered with ice or snow; when significant precipitation is reasonably anticipated in the next 24 hours; or during a precipitation event in accordance with Condition No. 15 of Part II of the permit.

6. Applicant Activity

Under the standard industrial classification (SIC) code 0213 or North American Industry Classification System (NAICS) code 112210, the applicant's activities are the operation of a swine facility.

7. Facility Type and Size

This facility operates as a sow-farrowing facility. The facility will house 6 boars, 2252 gestating sows, 420 lactating sows, and 750 nursery pigs. These are the maximum numbers of swine based on pen space and herd movement constraints.

8. Waste Storage/Treatment Component(s)

The swine farm utilizes two houses to confine 6 boars with an average weight of 450 lb, 2,252 gestating sows with an average weight of 425 lb, 420 lactating sows with an average weight of 400 lb, and 750 nursery pigs with an average weight of 14 lb. Waste enters pull plug pits located beneath the pens where the animals are maintained. The pits are pre-charged with water from the waste storage ponds. Pressure washers are used to wash down pens. The pits provide a maximum of 768,145 gallons of temporary, in-barn manure storage.

The waste system consists of two holding ponds. Waste from the barn pits drains into the first holding pond (Pond 1). An open concrete spillway allows for waste intermittent flow from Pond 1 to the second holding pond (Pond 2). All outside runoff from the surrounding area, direct rainfall into the ponds, and volume equal to a 24-hour, 25-year storm event will be stored in Pond 2 in addition to waste effluent received from Pond 1. A staff gage, located in Pond 2, is used to indicate the maximum accumulation of effluent before removal by pumping is required. The house pits are periodically recharged by recycling water from Pond 2; however, Pond 1 may supply recycling water based on Pond 2 water management needs.

A one-foot free board is maintained on Waste Storage Pond 1 and Waste Storage Pond 2 at all times in addition to the storage volume required by a 24-hour, 25-year storm event. The total volume of Pond 1 is 743,352 gallons from the bottom of the pond to the top of the freeboard. The total volume of Pond 2 is 1,978,743 gallons from the bottom of the pond to the top of the freeboard. The available storage of Pond 1 is 615,946 gallons, and the available storage of Pond 2 is 1,721,128 gallons. The

total combined available storage of Ponds 1 and 2 is 2,337,074 gallons. The maximum number of days available for storage is 310 days.

The holding ponds currently have 18-inch clay liners. The holding pond liners meet the requirements outlined in NRCS Conservation Practice Standard Waste Storage Facility (No.) Code 313. The facility has received coverage to add a synthetic liner to both holding ponds.

9. Waste Application Method

The manure and wastewater from either holding pond (Pond 1 or Pond 2) will be transported via liquid tanker trucks or an irrigation system and applied evenly over the land application sites. Waste may be transferred to other permitted facilities for land application in accordance with Condition No. 22 of Part II of the permit. The waste application rates for each land application site are based on the Arkansas Phosphorus Index (API).

P-Index Calculations

The API shall be used to determine the phosphorus application rate prior to land application based on the most recent waste analysis from Part I Table I, soil analysis from Part I Table II, and the current field management practices. According to Section 5 of the NMP, the following most variable inputs to the evaluation process include: manure application rate; manure total and soluble phosphorus concentrations; application timing; application method; soil test phosphorous concentrations and land use. If the resulting API assigned value is in the high or very high category, land application cannot occur at the specified inputs in the API calculation. Section 5 of the NMP shows an example of typical initial conditions for each field. As these conditions change, the API risk category will be re-evaluated to insure applications are made only when the associated risk is in the low or medium range. The inputs will vary over time; however, application will only occur on fields that are in the low or medium range of the API.

10. Total Waste Generated

The facility is estimated, based on the animal weight and numbers provided in Section 2 of the NMP, to generate 1,897,635 gallons of waste annually. The annual total waste available (animal waste generation, wash water, rainfall, and 24-hour, 25-year storm event) is estimated to be 2,624,000 gallons.

11. Total Available Acreage

There are 630 acres available for land application, according to the NMP. A total of 831.2 open acres are listed in the NMP; however, this acreage does not include any setbacks. With the addition of setbacks required by the permit to the open acreage, the spreadable acreage is reduced to 630 acres; therefore, the total available acreage for land application is 630 acres. The example calculations in the NMP, based on the waste and soil analyses as well as expected management practices and conditions, demonstrate that approximately 13,004,000 gallons of waste can be received by the land application sites. This value will change based on updates to the above inputs. Based on the example calculations, adequate acreage exists to land apply all the waste produced from the facility.

12. Basis for Permit Conditions

The Arkansas Department of Environmental Quality has made the determination to issue a draft permit for the no-discharge facility as described in the application and the NMP. Permit requirements and conditions are based on regulations pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.), Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 5 and generally accepted scientific knowledge and engineering practices (Ark. Code Ann. § 8-4-203(e)(2)(B)(i)).

Part I - Waste and Soil Analysis and Reporting

Analysis and reporting requirements in Table I and Table II of Part I of the permit are based on the APC&EC Regulation No. 5. The waste parameters listed in Table I shall be sampled and analyzed at a minimum of once a year based on Reg. 5.407(B). The soil parameters listed in Table II, for each field where waste will be applied, shall be sampled and analyzed at least once every five (5) years based on Reg. 5.407(C).

The parameters listed in Table III shall be sampled quarterly from the interceptor trenches. The parameters are based on the current parameters monitored by the University of Arkansas Division of Agriculture Research and Extension's on-going research study, and data from the on-going research study may be submitted to satisfy the requirements for reporting.

Part II - Specific Conditions

The conditions in Part II are based on the APC&EC Regulation No. 5 unless specified below. In accordance with Ark. Code Ann. § 8-4-203(e)(2)(B)(ii), the Department has provided the appropriate APC&EC Regulation No. 5 citation at the end of each condition or provided justification with appropriate reference to the scientific and engineering literature or written studies conducted by the Department.

Condition No. 2 prohibits any discharge from this facility. If the facility anticipates any discharge then the facility must apply for a National Pollutant Discharge Elimination System (NPDES) permit 180 days prior to the anticipated discharge.

Condition No. 5 was added to the permit because an application site covered in more than one permit is at risk of over application of nutrients. This condition requires the applicant to confirm with the landowner that the site is not currently covered under another active permit before permitting the site.

Condition No. 8 is based upon Table 6 of the *Arkansas Phosphorus Index (API)* by the University of Arkansas Cooperative Extension Service, which identifies lower risk categories to be those with an API value in the Medium class or lower. The inputs listed in Condition No. 8 (a) are inputs that may vary due to changes of site conditions and management practices. To adequately assess the risk category for a specific application rate, the inputs need to be updated to reflect the most recent soil and waste analyses and current management practices. The NRCS Conservation Practice Code 590 (Nutrient Management) requires that phosphorus risk be assessed by the API if land applying beyond recommended phosphorus needs. Nitrogen application rates are not to exceed the recommended nitrogen application rates.

Condition No. 15 is based on APC&EC Reg. 5.406(B). However, the Department also requires that land application not occur during a precipitation event. When land applying waste there is a critical time to prevent runoff to the Waters of the State, which is during land application and right after land application before the waste has had time to absorb into the soil.

Condition No. 17 is based on APC&EC Reg. 5.406(D). However, the Department used US Army Corps of Engineers Regulatory Guidance Letter No. 05-05 to provide a comprehensive definition of the ordinary high water mark.

Condition Nos. 17 and 18 are based on APC&EC Reg. 5.406. However, the Department added Condition No. 19 to the permit in order to verify that the permittee will be applying waste within all of the required boundaries of the land application site(s).

Condition No. 20 is based on APC&EC Reg. 5.407(E). However, the Department added the requirement to submit the phosphorus application rate with the annual report in order to verify the phosphorus application rates in the Phosphorus Index. The requirement to submit the API calculations used to determine phosphorus application rates must be submitted with the annual report in order to verify that the inputs listed in Condition No. 8 resulted in a Low or Medium classification on field that received waste.

Condition No. 22 was added to the permit because the facility may ship waste to permitted land application facilities. This condition lists the recordkeeping that the facility must maintain on the shipping of waste to other facilities.

Condition No. 25 was added to ensure that the integrity of the levees is maintained. The condition of the levees, and any repairs are to be reported annually to the Department.

Condition No. 26 was added to monitor the interceptor trenches below the waste storage ponds quarterly and report results for parameters listed in Table III Part I. Reports by the University of Arkansas Division of Agriculture Research and Extension's on-going research study may be submitted in order to satisfy this requirement. Monitoring and reporting will provide a method to assess the liner integrity.

Condition No. 27 was added to the permit to incorporate all fields that receive waste from the facility under the same permit and NMP in a timely manner. Currently, land application fields for EC Farms (AFIN51-00020) are authorized to receive waste from the permittee. It is the Department's understanding the addition of land application sites will facilitate the installation of liners for Waste Storage Pond 1 and 2 for C&H Hog Farms.

Condition Nos. 28 and 29 were included in the permit to continue the construction authorization for the installation of synthetic liners and geotextile base material. The permittee sought a permit modification to allow the installation of synthetic liners in Waste Storage Ponds 1 and 2 in May 2015. The modification request was submitted for public comment on July 8, 2015, and a public hearing was held September 29, 2015. The Department approved this modification on March 25, 2016.

Part III - Standard Conditions

Standard Conditions have been included in this permit based on generally accepted scientific knowledge, engineering practices and the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

Part IV - Definitions

All definitions in Part IV of the permit are self-explanatory.

13. Point of Contact

The following staff contributed to the preparation of this permit:

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Technical review

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14. Sources

The following Sources were used to draft the permit:

1. APC&EC Regulation No. 8, Administrative Procedures, as amended.
2. APC&EC Regulation No. 9, Fee System for Environmental Permits, as amended.
3. APC&EC Regulation No. 5, Liquid Animal Waste Management Systems, as amended.
4. Integrated Water Quality and Assessment Report (305(b) Report).
5. Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq.
6. Arkansas Trade Secrets Act, Ark. Code Ann. § 4-75-601 et seq.
7. US Army Corps of Engineers Regulatory Guidance Letter No. 05-05
8. Application for permit No. 5264-W received April 7, 2016.
9. NMP dated April 6, 2016 and received on April 7, 2016.
10. Additional information received on June 29, 2016.
11. University of Arkansas Division of Agriculture Research and Extension Big Creek Research and Extension Team Quarterly Reports
12. Drilling Study Report by Harbor Environmental and Safety, Inc. dated December 2016, as amended.

15. Public Notice

During a 30-day period, any interested persons may submit written comments on the permit and may request a public hearing to clarify issues involved in the permitting decision. A request for a public hearing shall be in writing and shall state the nature of the issue(s) proposed to be raised in the hearing.

The ADEQ will notify via an e-mail public notice of the permit to the Corps of Engineers, the U.S. Fish and Wildlife Service, the Arkansas Game and Fish, the Department of Arkansas Heritage, the EPA Region 6, and the Arkansas Department of Health as well as all interested persons that are listed in the ADEQ Water Permit public Notices Listserv for review and comments.

DRAFT