

Charles J. Bitting  
HC 73, Box 182-A  
Marble Falls, Arkansas 72601  
COMMENTS ON DRAFT PERMIT 5264-W  
March 15, 2017

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Ms. Katherine McWilliams  
Arkansas Department of Environmental Quality  
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[Water-Draft-Permit-Comment@adeq.state.ar.us](mailto:Water-Draft-Permit-Comment@adeq.state.ar.us)

Dear Ms. McWilliams:

I am submitting my comments in regard to the draft permit for C&H Hog Farm, Inc. (C&H) permit number 5264-W pursuant to Arkansas Pollution Control and Ecology Commission (APCE) Regulation #8.

Before I get started on this current permit, I would like to discuss what I see as the real problem with this pig factory. ADEQ issued a general permit under APCE Regulation 6 in 2012 with no effective public notice. Not receiving any public comments, ADEQ issued the permit without fanfare. Since no-one commented, no-one had standing to appeal the permit. I and many others regard the granting of the permit by ADEQ without looking at the water quality of Big Creek and the Buffalo River, without doing any geotechnical work to determine the facility was going to be built on KARST, and without even determining that the receiving waters for this DISCHARGE facility was a major tributary to the BUFFALO RIVER, the first river in the United States of America to receive this designation, was a CAPRICIOUS AND ARBITRARY action, and an ABUSE OF DISCRETION. It was capricious because the permit was issued as if by a whim, without providing the public your agency serves an opportunity to review and comment. It was Arbitrary because sound reasoning did not go into the permit issuance. The permit was issued for what is arguably the most sensitive landscape in the State of Arkansas. It was an abuse of discretion because ADEQ has a responsibility to the citizens of Arkansas and the United States to protect water quality; particularly when dealing with an Extraordinary Resource Water and Natural and Scenic Waterbody as well as an Outstanding National Resource Water. ADEQ failed to take the Buffalo River into account, and failed to conduct any modeling of the potential impacts of the facility prior to issuing the permit, even though ADEQ established the precedent for such modeling in the Buffalo River watershed in the case of the to Devoe Smith hog farm application in the early 1990s. Since the public could not appeal ARG590001, we were left with very little recourse but to vigorously oppose the operation of the facility in this sensitive environment at every opportunity.

Now ADEQ wants to simply convert a DISCHARGE permit to a NO DISCHARGE permit without requiring significant or substantial changes in the engineering, operation, and maintenance of the pig factory. If I may quote Leonard Nimoy, "That is illogical Captain". For this reason, and this reason alone, the permit should be immediately denied and

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C&H should be forced to apply for an individual NPDES permit, or be required to close their operation. To do any less is to continue the downward spiral down the path of ARBITRARY AND CAPRICIOUS actions and further ABUSE OF DISCRETION.

It is my personal opinion that ADEQ engineers are not thoroughly reviewing the applications from C&H. In the ADEQ Disclosure Statement Part 12 in their original application, C&H failed to note the sizable amount of debt being carried by Farm Credit Services, and the fact that the risk for much, if not all of that debt was being shouldered by US citizens through the USDA Farm Services Agency, and the Small Business Administration. Since this was not covered in the original, and has not been covered in any subsequent application, it is my opinion that this NEW PERMIT APPLICATION IS INVALID. It appears to me that ADEQ engineers did not notice that the soil samples used for the application are over a year old, and some are nearly two years old. It is unreasonable to assume the soil conditions would be the same, particularly on fields which have been receiving swine manure and/or poultry litter. It also appears that ADEQ engineers did not see that the Nutrient Management Plan (NMP) is based upon the lowest Phosphorus (P) concentration ever recorded from Pond 1. I also see no evidence that ADEQ engineers required a NMP spreadsheet specific to pond sludge, even though the draft permit would allow C&H to clean their ponds in order to install synthetic liners. I am shocked to see that ADEQ engineers are already writing in modifications to the C&H permit to allow them to absorb EC Farms spreading fields. What is the point of having a new permit, if they don't go ahead and put in all their fields now? This makes no sense and points to a lack of honesty on the part of ADEQ and C&H as both have long averred that EC Farms and C&H were not related operations beyond the fact that EC Farms would receive C&H waste. Even a blind man can see that EC Farms is just a subsidiary of C&H. I have to ask, if your agency was dishonest about that, what else have you cooked up with C&H and not told us?

I suspect the myopic engineers at ADEQ have not noticed that the hamlet of Mt. Judea is completely surrounded by spreading fields in the draft permit. As a Newton County resident, I know that the Mt. Judea public school is situated within that hamlet. I also read the newspaper and know that the Mt. Judea public school is in fiscal distress, and doing their best to keep their doors open. I suppose such minor details are not noticed by engineers and administrators at ADEQ. I grew up close to a dairy farm and know how the odors of manure can permeate an area. I believe that if this new permit is granted, the stench of aerosolized hog waste resulting from manure spreading will drive the last nail in the coffin of the Mt. Judea school, and the community of Mt. Judea. I have heard that some parents are already taking their children to other schools because of the current configuration of the pig factory and its waste disposal fields. This is likely to increase, killing yet another rural school and making for extra long bus rides for many children.

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I don't hate farming and farmers. I grew up on a small farm in Missouri where we raised hay, beef cattle, pigs, and chickens as well as other livestock and commodities. One of my brothers specializes in raising horse hay, another is a retired Ag teacher. My wife and I have a small farming operation. My grandparents and great-grandparents were all farmers. I really like farms and farmers, but I am not fond of factory farming. I have watched the growth of vertical integration in poultry production in the Ozarks for most of my life. The little chicken houses from the 1960s have been replaced with ever bigger houses each 10 to 15 years. The industrial animal production model is like a cancer, always growing, always requiring bigger facilities, always looking for new areas to dispose of waste. The factory farmer is an economic slave to the integrator. About the time he gets his loans paid off, he is required to make expensive changes. The integrator owns the animals and requires the producer to use their feed. The producer owns the buildings, appurtenances, and the waste. Factory farms don't create jobs, they destroy them. Factory farms don't make communities stronger, they destroy them. Factory farms don't improve property values, they decrease the valuation of nearby properties. Factory farms are the worst kind of neighbor. Factory farms concentrate wealth in a few hands while blighting their operation area with foul odors and bad water quality. In hundreds of examples around the United States, the story is the same. Factory farming gets a toehold, and before you know it, the factory farms are everywhere, the creeks and air are polluted, and people move to the city to find opportunity and to get away from the headaches and nausea they experience every day emanating from their factory farm neighbors.

The permit relies on a Pollyanna Nutrient Management Plan which is wildly unrealistic. Here are some of the many reasons the NMP is unrealistic.

- C&H only owns a few of the fields, they do not control the application of lime, nitrogen, and potassium on the majority of acres they spread waste onto. C&H cannot, or will not, balance and optimize these other nutrient to ensure the maximum amount of phosphorus is taken up by the forage grasses.
- C&H only owns a few of the fields, they do not control stocking rates and stocking rotations on the majority of acres they have applied to spread waste on. C&H cannot move the livestock on fields they do not own to minimize soil loss while optimizing livestock production.
- In their 2016 annual report, C&H claims as much as 6 tons per acre of forage removed from fields they spread waste on. Since C&H does not manage most of these fields in the normal sense of a farm lease, I find these production numbers to be highly questionable.
- The hog waste is not a fertilizer in most cases. According to the Oxford English Dictionary, a fertilizer is a chemical or natural substance added to the land to increase its fertility. Nearly all of the fields have Optimum or Above Optimum levels of P already, and the N content of the manure is fairly low. Adding additional high P, low N hog waste will not make the fields substantially more fertile. These fields are actually WASTE DISPOSAL SITES, and should be noted as such.

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- Unless the fields are hayed, and the hay is hauled out of the Big Creek watershed to be used as livestock feed elsewhere, there is a continuous net increase in available P within the Big Creek sub-watershed. The NMP does not account for the buildup of P in the sub-watershed through the feeding of this hay to livestock.

Dr. Halihan and Mr. Fields discovered epikarst under at least two of the fields through Electrical Resistivity Imaging (ERI). BCRET discovered epikarst under at least one field through Ground Penetrating Radar (GPR) surveys. The NMP was not modified to avoid applying waste to the areas within 100 feet of these soil mantled sinkholes, even though it is required in Regulation 5.406(D). Failure to protect these sinkhole features in the epi-karst is not protective of groundwater quality.

ADEQ does not require C&H to permanently mark the waste disposal boundaries in the waste application fields. As a result, I fully expect that waste will be applied where it is not supposed to be. This is neither protective of water quality, nor is it protective of the health and welfare of the citizens of Big Creek valley.

The Natural Resource Conservation Service (NRCS) Agricultural Waste Management Field Handbook (AWMFH) 651.0702(c) and 651.1004(b) [Table 10-4] strongly discourage the construction of waste storage ponds with compacted clay liners or synthetic liners above karst features. The ERI study Dr. Halihan completed around the waste storage ponds, and the drilling study completed for ADEQ proved that the ponds are indeed situated on top of karst features. Based on the large body of sound scientific evidence regarding the waste ponds at C&H, and the even larger body of sound scientific evidence discouraging the construction of such facilities on top of karst features, it would be unreasonable and arbitrary for ADEQ to grant this permit. Therefore, the permit for C&H as currently developed, cannot and should not be granted.

There are many more problems with the permit application and the draft permit. Buffalo River Watershed Alliance and others have picked up these numerous deficiencies very well. I urge ADEQ to listen to the citizens, not just the regulated industry and their lobbyists and not issue this permit. My grandfather Bitting had a lodge brother out in Oklahoma who was a cowboy. His name was Will Rogers. I would like to close with one of his quotes which I feel is very appropriate for ADEQ in this situation. "If you find yourself in a hole, stop digging."

Sincerely,



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