

**MICHAEL E. KELLY, P. A.
ATTORNEY AT LAW
207 East Old Main Street
YELLVILLE, ARKANSAS 72687**

Michael E. Kelly, Attorney
Licensed to Practice Law in the States of Arkansas and Tennessee
Mikekelly@yellville.net

870-449-4248
870-449-4249
FAX 870-449-1190

March 17, 2014

ADEQ
Attn: Teresa Marks, Director
5301 Northshore Drive
North Little Rock, AR 72118-5317

also via e-mail: marks@adeq.state.ar.us

RE: C&H HOG FARMS, INC. PERMIT ARG 590001, AFIN 51-00164

Greetings:

Reference is made to the request by C&H Hog Farms, Inc. to modify their nutrient management plan, concerning the allowing of land application via vac tanker method on fields 7-9.

The proposed modification should be denied.

Fields 7-9 are located directly below the production barns and ponds, next to Big Creek, and are within 300-500 feet of the Mt. Judea school system. Fields 7-9 are not included as testing fields in the Big Creek Research project, and no phosphorus index was shown in the nutrient management plan. Without testing these fields, there is no benchmark for them or proof that land application is safe, or is an acceptable agricultural practice. No spread fields should be approved without permission for testing being a part of the "land use contracts."

It is noted that the "land-use contracts" are not, in fact, binding leases and no adequate guidelines and conditions have been set forth by the Arkansas Department of Environmental Quality concerning the amount, quantitative analysis or frequency of application as to those fields. The owners of said fields have not acknowledged or accepted any modification of the waste management plan.

Field 5 of the original nutrient management plan has now been deleted due to the misrepresentation by C&H Hog Farms, Inc. that it had the right to spread on field 5. Fields 5-9 were to receive 70% of the untreated swine waste. In effect, that means a substantially increased amount of volume will need to be placed on fields 7-9. It must be presumed and included that the pipeline sprinkler system is still proposed for field 6. However, it is ambiguous and unclear, as there have been several amendments to the plan and *de facto* changes of the plan.

The nutrient management plan that has been submitted is wholly inadequate to properly address the environmental impact of the C&H Hog Farms, Inc. CAFO at its current location. The notice of intent, and nutrient management plan filed with the same, contain so many misstatements and misrepresentations of fact that the entire permit should be subject to critical analysis and review.

C&H Hog Farms, Inc. has already *de facto* modified or obtained modifications of the nutrient management plan by requesting early permits of distribution to various distribution fields, deleting certain fields stated in the original application because of misstating its right to spread on said fields, misstating actual abilities of containment of hog sewage, misstating actual ability to dispose of dead or waste hogs, and has acknowledged economic inability to comply with its original nutrient management plan, including, but not limited to, the most recent request to allow vac tank spreading on fields 7-9.

A 25-year, 24-hour storm event is wholly inadequate. The distribution of manure on fields during wet weather, and at any time other than growing season, should be strictly prohibited.

Such spreading on these fields cannot be safely accomplished, due to both the karst terrain of the location of this hog production facility and the location of the spread fields in relationship to the town of Mt. Judea and the Mt. Judea school system, both of which have already impacted the Big Creek Valley. The impact has been not only a threat to the water quality of Big Creek and the Buffalo National River, but also to the water quality of various water users within the impacted area. Odor and chemical air degradation has impacted neighboring properties, including the Mt. Judea school and neighboring areas.

The practice of spreading on fields 7-9, as well as other designated fields, will continue to be an actual threat to the water and air quality, impacting health, safety and welfare.

I object to the State of Arkansas expending monies to study C&H Hog Farms, Inc.'s private enterprise, when in fact such studies and proof should have been provided by C&H Hog Farms, Inc. and Cargill, its contractor that allowed for the funding of this agricultural production facility.

All of these changes indicate that a total review of the permit and nutrient management plan should be mandated and a critical evaluation be made.

It is respectfully requested and petitioned that the proposed modification be denied and in lieu thereof, that the permit for C&H Hog Farms, Inc. be opened up and reviewed by critical review.

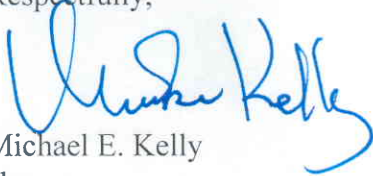
I am opposed to the 6,500-hog CAFO located on Big Creek in the watershed of the Buffalo National River, am a resident of the state of Arkansas and reside within the Buffalo National River watershed, using said river as an adjunct to my commercial business and as a canoeist, swimmer, fisherman, camper and bird-watcher. The Arkansas rules for environmental protection are lax, as evidenced by North Carolina's experience and law now prohibiting the lagoon (cesspool) and spray field system that is allowed under this nutrient management plan and by the State of Arkansas. C&H Hog Farms, Inc. continues to propose the dumping of 2,000,000 gallons of untreated hog manure and waste on the adjacent fields of Big Creek in the karst terrain where the clay-lined lagoons are already

acknowledged to be leaking (6,000 gallons per acre is allowed) and the spray fields 7-9 are designated as fields which flood and the hydrogen sulfide other toxic fumes and particles will be discharged into the air. It is clear, as has been stated by geologists, that there is a 95% certainty that the water will be degraded as it flows into the Buffalo National River.

C&H Hog Farms, Inc., supported by contract with Cargill, represents the worst of stewardship and the current proposed modification will continue to threaten the environment, the health and welfare of the Mt. Judea school, citizens and the surrounding area, as well as the Buffalo National River.

Arkansas can do better. I respectfully request an opportunity to address these issues at public hearing.

Respectfully,



Michael E. Kelly

elm

pc Arkansas Pollution Control & Ecology Commission via e-mail
Buffalo River Watershed Alliance via e-mail