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**Responsiveness Summary to public comments on the  
Bowersock Pork draft Permit to Install and draft Permit to  
Operate  
June 5, 2014**

On April 18 2014, the Ohio Department of Agriculture issued a public notice of Bowersock Pork draft Permit to Operate. This public notice opened the public comment period on the draft permits and informed the public that an open house and public meeting would be held on May 20, 2014 at the Salem Township Building, located at 21219 State Route 197, Spencerville, OH 45887. The open house began at 6:30 pm with the public meeting to record public comments beginning at 7:00 pm to accept comments. The comment period ended at 5:00 p.m. on May 28, 2014.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code (OAC), persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.



Public Comments Submitted by:

No.	Date Received	Name	Organization, if Any	City, State
1	5/28/2014	Bruce Stoner		St. Marys, OH
2	5/28/2014	Doug Zimmerman	Neighbor	Spencerville, OH
3	5/28/2014	Phyllis Fell		Spencerville, OH
4	5/26/2014	Richard Seibert		Spencerville, OH
5	5/28/2014	Todd Spicer	Local Resident	St. Marys, OH
6	5/20/2014	Gary Truesdale		
7	5/20/2014	Hue Seibert		Spencerville, OH

All similar comments are summarized and grouped.

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**1A. Permit to Install - Ground water quality and potential contamination:**

*One of these concerns involves the quality of our ground water living so close to the hog operations.*

*As a neighbor directly to the east of the aforementioned property, we have serious concerns over the quality of our ground water if Mr. Bowersock is allowed to proceed with his expansion.*

*Water quality is a large concern within our area as well. The aquifer sits under this barn and supplies several houses within the vicinity is shallow.*

*We had problems with our water when ODOT worked on the bridge and they got into the*

*shallow aquifer where homeowners originally drilled their wells. It got into the underground river and affected our water then. We don't want that to happen again.*

*If and when this water leaches into our well water who will take and be responsible to the people with these wells?*

*If there is damage to our wells, who will pay for it?*

**Response:**

The proposed fabricated manure storage structure (concrete deep pit) was designed in accordance with ODA rules and the American Concrete Institute standards. ODA Rules require that a licensed professional engineer (P.E.) develop the design in accordance to these rules and standards. In addition, the PTI requires a geological exploration and an accompanying report to demonstrate the proposed site for the manure storage structures meets ODA rules intended to protect groundwater quality (found in OAC 901:10-2-02). The geological exploration report was also developed by a P.E. and is included in the PTI. It concludes that all borings drilled encountered a very low permeable clay layer located directly below the planned bottom of both pits. Further information on the geology at the site is included in the PTI.

ODA rules require that an annual ground water sample will be tested from a well at the facility that is properly installed, located, protected and operated. Bowersock Pork will be required to perform an annual groundwater quality test for nitrates and total coliform bacteria as part of their Permit to Operate. For concerns associated with ground water, the best place to sample is at the farm itself. The production well used at the site would likely pull more water from the aquifer than the surrounding individual homes, and any potential pollution from the facility would therefore show up in the production well first due to the localized water drawdown from the production well, called the "cone of depression."

If wells would become contaminated around the facility after it becomes operational, then the source of the contamination would be researched. Once the source of contamination is confirmed, appropriate remedial actions will be implemented. Liability for any contamination would be determined once the cause and source of contamination was defined.

As a general rule, no matter where in Ohio a private well system is located, annual water sampling is recommended by the Ohio Department of Health, the National Groundwater Association, the Centers for Disease Control and Prevention (CDC) and the U.S. Environmental Protection Agency. The regularly recommended sampling of private wells in Ohio is solely the owner's responsibility.

It is also important to note that ODA began requiring these annual on-site well sampling at permitted facilities when it began issuing PTIs, PTOs and Review Compliance Certificates to Ohio EPA permitted facilities in 2002. Many of these facilities had been permitted for 20 years or more and many had livestock for over 100 years. The well test results that we have inspected have not shown violations of drinking water standards required by the Health Departments.

**1B. Permit to Install - Ground water quantity and usage**

*Without knowing what animals are being fed and treated with (antibiotics) how do we even*

*know what is going into the soil that could affect our water supply? What about phosphorus, who is monitoring and sampling for that?*

*Also with this expansion is the increase in ground water usage from ~1 million gallons of water a year to ~2 million gallons of water a year.*

*We have concerns about...excessive well water usage and consumption.*

*Depleting our water supply is also a concern with the addition of this production facility. With finishing pigs consuming an average of 3-5 gallons of water per day and the proposed facility housing over 4,000 hogs, this will create a large draw on our existing water supply.*

**Response:**

Bowersock Pork projects an average water usage of 7,760 gallons per day, which would be equivalent to 5.4 gallons per minute. The Ohio Department of Natural Resources (ODNR) Division of Soil and Water Resources has prepared a Ground Water Resources Map for Auglaize County, which indicates the limestone aquifer supplying Bowersock Pork and the surrounding area is capable of delivering more than 100 gallons per minute at depths of more than 100 feet. Shallow wells in the area (less than 100 feet deep) can reliably deliver up to 30 gallons per minute. Based on the rating of the supplying aquifer, there should be no adverse effects to the neighboring wells due to the projected water usage by the swine facility.

ODA has no regulatory authority over groundwater withdrawal. If a facility has the capacity to use greater than 100,000 gallons of water per day, it is required to register with the ODNR Division of Soil and Water Resources, as required by Ohio Revised Code Section 1521.16. Bowersock Pork estimates a daily withdrawal rate of approximately 7,760 gallons per day and therefore is not required to register with ODNR Division of Soil and Water Resources. If there are additional concerns, local government officials, in cooperation with area residents, can request ODNR's Division of Soil and Water Resources to assist in conducting detailed studies. ODA does not, nor does any state agency, have the authority to allocate quantities of ground water among all actual or potential users. *Cline v. American Aggregates*, 1984 Ohio LEXIS 1308, allows for the reasonable use of ground water for beneficial purposes.

**2A. Permit to Operate – Manure management and water quality:**

*Another real problem with new barn is that it adds to the number of animals being raised on just 40 acres with the Bowersocks owning no adjoining acreage.*

*The soils (Millgrove Clay Loams and others) in the flood plain has a lot of gravel in it enabling the over application of manure nutrients to leach quickly into the tiles going to the river to Ft. Wayne or Lake Eric. And to the water table. Mercer County already has this problem going into the Grand Lake.*

*The immediate farmers don't seem too pleased with the additional barn so where will all the manure go? Is this a good manure plan?*

*The amount of manure that Darrell Bowersock is applying to the ground is too much for the acreage of land that is available.*

*We have concerns about...close proximity of the actual facility and manure distribution in relation to the St. Marys River.*

*We have concerns about...further phosphorous contamination of Lake Erie.*

*Also a concern is the proximity of Bowersock Pork to the St. Marys River and the probability of run off from the waste.*

*In dry weather, with rain, it could move hog manure into the sand. In flood conditions it could raise the manure up and wash out.*

*If this is not regulated any better than the septic systems I am really concerned if this will have better regulations enforced. Half of the houses along 197 do not have a leach field or a sand filter. This sewer water goes directly to the river. I need to be assured that the water would not leave the farms.*

*With the close proximity to the St. Marys River, it is a grave concern as to the run off of waste from the farm to the river.*

*Remember that member folks downstream use their water source from the St. Mary's River and it eventually joins the St. Joe and Maumee. How is this being a good neighbor when the water source that supplies these folks could make them sick?*

*Closer home, I am concerned about the surrounding wells from which all receive our drinking water. Has there been a percolation test done to know how this ground will handle it?*

**Response:**

The Manure Management Plan (MMP) for the draft permit does not allow over-application of nutrients or discharges that would lead to impairment of surface water quality. ODA rules governing land application of manure nutrients are equally protective of all rivers, streams and watersheds.

Manure is to be applied using best management practices (BMPs) and in accordance with department rules, with the intent to replace more soluble commercial chemical fertilizers that would otherwise be used to provide the same nutrients on the same cropland. ODA Rules in OAC 901:10-2-13 require that soil samples be taken at least every three years for every 25 acres or less of the planned land application area. The most recent results of these samples are provided in the permit in the MMP. The land application of manure under the control of a concentrated animal feeding facility (CAFF) must also follow setbacks to protect waters of the state. For instance, a setback of 35 feet of vegetative buffer, or 100 feet if not vegetated, is required for all surface manure application in Appendix A, Table 2 of OAC 901:10-2-14 to help protect waters of the state.

ODA also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. Twice each year, a department inspector conducts a full inspection and correlates the MMP with the data recorded in the Operating Record, such as the crop yields, annual manure analysis, and new soil samples collected. See OAC 901:10-2-10 for manure and OAC 901:10-2-13 for soils and testing frequency.

Application rate criteria are set forth in ODA's rules, and all of these criteria are evaluated to determine what the most limiting factor for the field is at the time of application. The application rate criteria include - but are not limited to - the nitrogen needs of the crop being grown, phosphorus based on soil tests, and the available water capacity of the soil at the time of application. See OAC 901:10-2-14. Based on this evaluation, the permitted application rate is determined and that application rate is used for that period of application. Generally, the most limiting factors are the nutrients evaluated and, for liquid manure, the available water capacity (AWC) of the soils in the field. The AWC is often the most limiting factor for a single time liquid manure application because the water holding capacity of the soil may be achieved in a single application before the allowable nutrients are applied. Limiting liquid applications to the AWC ensures that soils are not over-saturated and limits the downward movement of nutrients through the soil profile. This serves as a means to prevent groundwater contamination from manure application events. For further analysis of the available water capacity chart, refer to Appendix B of rule 901:10-2-14. In addition, depending on the time of year, additional nitrogen limitations are evaluated, as provided in OAC 901:10-2-14(D). Additional criteria also heavily restrict application on frozen or snow-covered ground, as provided in OAC 901:10-2-14(G).

As described in OAC 901:10-2-14(E), the application rate for phosphorus is determined using soil test data, the phosphate requirements for the planned crops or crop rotations, and either the phosphorus index risk assessment procedure in Appendix E, Table 1 or the phosphorus soil test risk assessment procedure in Appendix E, Table 2 of the rule.

Weather must be recorded for a period 24 hours before, during and 24 hours after manure applications to ensure that rainfall will not cause manure to leave the application site. As noted in OAC 901:10-2-14(C)(6), land application of manure shall not occur if the forecast contains a greater than 50% chance of precipitation of an amount of one half inch or more for the period of 24 hours after the start of land application. Though weather forecasting is not an exact science, limiting liquid manure applications ahead of anticipated precipitation events provides some measure of protection against the potential downward movement of manure nutrients through the soil profile, and serves as a means to prevent groundwater contamination from manure application events.

Following these BMPs and department rules will minimize any potential impact to the watersheds where the manure will be utilized. However, in the event of a discharge, the farm is required to immediately notify ODA of any discharge, begin immediate remediation and corrective measures to stop further discharges, collect samples of discharges and allow the department to inspect and test. Enforcement measures, including fines and penalties, are provided in rules and statute to address violations.

## **2B. Permit to Operate - Manure application on fields with soils prone to flooding**

*I am concerned about...the spreading of hog manure on the flood plain of the St. Marys River,*

*There is a hog setup south of the river on Barber Werner Road, and manure is being applied to flood plain already. Even the land directly west of the Bowersock farm facility is a flood plain. There was a gravel pit built nearby that was built on the Bowersock farm for sand and gravel for building of the Baker Wright Road many years ago.*

*Two miles from 66 to along 197 is a Flood plain in which Bowersock's have already applied hog manure. This area is under lauded with sand and gravel. This could affect the shallow wells of Kossuth and the surrounding area.*

*This area is also an annual flood plain. While it is known for having nutrient rich soils, it consistently floods several times a year, covering crop farmed areas. As waters retract and they fall to the St. Mary's River watershed which long term feeds Lake Erie, which is currently under State and Federal scrutiny for water quality, most of which is being pointed towards agricultural production. Increased nitrogen producing sources will increase run-off/ leaching sources and continue to feed these problems.*

*Most of the entire areas is what quite often floods to nearly the doorsteps of at least 14 houses or more within a mile of the barns.*

*Is applying liquid manure on top of this type of soil good practice?*

*He is not knifing the manure into the soil now and will not in the future. He is spreading it on top right next to the river which floods often.*

**Response:**

ODA rules limiting manure applications to soils that are classified as being prone to flooding, based on the soil type and through reference to the current United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Web Soil Survey for the county. Manure applications are allowed on soils that are prone to flooding, but only during those months outside the predicted flooding season. Manure applications on flood prone soils must be incorporated within 24 hour and documented in the facility's operating record, which will be regularly inspected by ODA.

By comparison, there are currently are no rules or regulations concerning the application of synthetic chemical fertilizers on soils that are prone to flooding, even though fertilizers are manufactured to be highly water soluble.

**2C. Permit to Operate - Distribution and utilization of manure nutrients**

*We have concerns about...manure distribution monitoring and enforcement.*

**Response:**

Records on manure distribution must be kept in accordance with ODA rules found in OAC 901:10-2-11, 901:10-2-09, and 901:10-2-16 of the OAC. These records are required to be maintained at the facility for review by the ODA inspector during the twice-per-year inspections or at any other such time that ODA conducts an inspection or complaint investigation at the facility.

**2D. Permit to Operate - Manure characterization**

*We have concerns about...manure characterization monitoring and enforcement.*

*Also the water that is being put in these pigs, how does it change the nutrients levels of the manure because it sure has a different odor? Would that change the manure plan?*

**Response:**

ODA rules require that each manure application will be based on a laboratory analysis of a recent representative manure sample. ODA also requires that the results of manure sample analyses be kept in the operating record and provided to all persons receiving or applying manure. The operating record will be regularly inspected by ODA.

**2E. Odor concerns**

*The neighbor built his hog barn in 2005. Day two that the barn was filled was a hot humid day, life at the Stoner farm was changed by the hog manure and strong urine (being polite) smell. We built our house so we could entertain as well as raise our family and the entertaining part of the plan was changed from that time on. Not every day is bad as that you know because the wind doesn't always come from the west but the predictability of the smell is the risk. We have changed locations for family outings at the last minute.*

*We have concerns about...Lack of efforts by any Ohio agency to minimize and monitor manure odors.*

*The day they were spraying manure it smelled so bad east of Kossuth it burned your breath and I turned south at the Tile Mill.*

*We live with the smell quite often keeping our hose shut up not able to open the windows. Even when there is no wind the air is heavy the smell pools. Then it comes to the time when the manure is spread, the first week is horrendous the second and third week depends on what direction the wind is and how hot it is, and the first couple rains we get more smell. And they pump the pits 2 times maybe 3 times if you're real lucky.*

**Response:**

Odor minimization is required by ODA rules and the conditions of the PTI and PTO. In the Manure Management Plan of the draft PTO, Bowersock Pork has identified specific Best

Management Practices listed in OAC Rule 901:10-2-12 to minimize odor. These include removal and land application of manure when wind direction is less likely to affect neighboring residences and injection or incorporation of manure when at all possible.

Odor is something that will be evaluated during routine ODA inspections and complaint investigations. Inspectors would determine if the permit was being followed and if the odor was occurring as a result of the producer not following Best Management Practices. If the permits are not followed, the farm could be subject to an ODA enforcement action.

### **3. Regulatory oversight by Ohio EPA**

*Has this been approved by the EPA? and will this be under their control or who will it be?*

#### **Response:**

The Ohio EPA no longer has regulatory approval authority on livestock farms. In 2002 the Ohio Legislature granted this authority to ODA for both Permits to Install and Permits to Operate as well as regular and complaint inspections. Prior to expanding this authority at ODA, the only permit required was a PTI with no regular inspections.

### **4. Comments receiving no response**

ODA does not have complete control over all aspects of livestock permitting in Ohio. The areas over which ODA has been granted authority are very limited and are covered under the Permit to Install and Permit to Operate. ODA has not been given any statutory authority to regulate the following subject areas:

- Property values
- Odors
- Air emissions
- Antibiotic use
- Feed additives