

Nov 15, 2008

Mr. Matt Gluckman  
77 W. Jackson Blvd.  
Chicago, IL 60604

Dear Mr. Gluckman,

I am very concerned about the potential transfer of oversight for factory farm water pollution permits from the Ohio Environmental Protection Agency (OEPA) to the Ohio Department of Agriculture (ODA).

The proposal effectively transfers control of factory farm water pollution to an administrative body that is biased in favor of the agricultural industry. Furthermore, it is an abdication of responsibility from OEPA, which is legally mandated to protect public health and the environment.

In Ohio, The Dept of Agriculture appears to continue to struggle with it's role as both the lobbyist for the factory farm industry, and at the same time try to present it self as the regulator of the industry that they are committed to promoting. One needs to look no further than Vreba-Hoff. An organization under almost countless "alias names, that currently has ammassed over \$230,000 in fines for countless violations at a single Hudson, Ohio facility. This is the very same Vreba-Hoff/William VanBakel that the ODA was perfectly comfortable with in granting a permit to install the largest milk CAFO in the state. Only because several legislators and our attorney made their decision so visible that they acquiesced to tabling the application. Factory farms generate over 10.5 million tons of animal waste per, with some individual facilities creating ~~more waste than medium-sized cities. Rich in phosphorus and nitrogen, animal waste is a major source of~~ water pollution in Ohio. These chemicals enter waterways, killing fish and other aquatic life and contaminating our drinking water.

The environmental and public health impacts of factory farms are tremendous. The EPA must consider the Ohio Department of Agriculture's dismal track record before handing over authority to regulate water pollution. For example, ODA's enforcement is lax and does little to promote compliance with the law. Ohio Fresh Eggs, formerly Buckeye Egg, has amassed 36 notices without a single fine levied against it since 2003. I urge you to deny the transfer water pollution permit authority to the Ohio Department of Agriculture. In addition, Ohioans should have at least 30 more days to review and comment on this important decision. At least one additional hearing should also be held in Northwest Ohio where the majority of these facilities exist.

In light of Ohio Department of Agriculture's weak track record, Ohioans deserve a better equipped agency to protect our drinking water, our quality of life and the state's natural resources.

Sincerely,

  
London, OH 43140

[REDACTED]  
London, Ohio 43140  
740-852-0060

11/22/2008

Matt Gluckman  
EPA Region 5 Water Division  
NPDES Programs Branch ( WN16J )  
77 W. Jackson Blvd.  
Chicago, IL 60604

Re: Transferring NPDES authority to the ODA

Dear Mr. Gluckman

Thank you for taking the time to read this letter.

I am going to give you factual information that should convince you that the Ohio Dept of Agriculture has demonstrated significantly, and repeatedly, a lack of regard for their other job, which is, the enforcement of the regulations that are designed to protect the environment.

Let me begin with giving you a very brief statement of my position in this matter. I have not traveled the state to gather this information. All of this has occurred in a very small area around London Ohio. I do know, that similar events are occurring across the state.

I do not have a financial interest in this matter.

I do have an interest in the environment.

I have witnessed people's lives, and homes being severely compromised because of the lack of enforcement.

I have observed a river full of dead fish, because the ODA has not enforced the regulations .

I do not believe any company or person should be allowed to harm, hurt, or infect another innocent victim. I think that is an American principle.

Like may others, I have incurred added costs to my business because of EPA regulations...because the EPA was doing it's job.

You do not have a conflict. You can stand strong in your conviction to protect the environment, and the human beings that live in it.

**THE ODA CANNOT MAKE THAT STATEMENT**

You will notice I have included a number of copies and documents. I will do my best to substantiate that every word I am telling you is correct, and easily verified.

About 6 years ago a CAFO with less than 700 milking cows was established south of London. The ASSEN Farm.

I know you are concerned with farms over 700, but the ODA's performance, and honesty, should apply to Cafo's of any size.

There were multiple spills into the rivers. The county engineer was called because the ODA isn't open on weekends. The Engineer's office found that the "mains" on the drain tiles were packed with silage instead of being capped properly.

The ODA never really acknowledged that it even happened.

More recently the Assen Dairy, a Vreba -Hoff project has continued to have issues

The neighbors state they have called the ODA with no response, and the local sheriff no longer responds to the calls because they do not have any authority.

In 2009 on May 1<sup>st</sup>, 7<sup>th</sup> and 8<sup>th</sup> The Assen dairy again turned the river black. This time the local residents did not call the ODA. Instead they called the Ohio EPA. It was after business hours, so it is difficult to get a response. The spills on the 7<sup>th</sup> and 8<sup>th</sup> were during the day. The EPA did, as expected, responded very quickly. The assessment was that there was not only a spill, but a fish kill. Many of us laughed at Kevin Elders press statement, recalling the alleged phone call from the Assens, when he said, "it was a call the Assens didn't want to make" We thought it was a little easier to explain why they called when the channel 4 and 10 helicopters were flying over his head, videotaping their evening report. Just so we are clear, we called the EPA, they contacted soil and water. Enclosed are the articles in the paper documenting the spill. Do the ODA's records list this event? I don't know, but I suspect you might be curious. The Assen's mentioned that they didn't realize the fields were tiled. In Madison County, every field is tiled. This was on their property, they knew it. It is the requirement that they know if a field is tiled. Interestingly, I have spoken to Kevin Elder about Assen. His comment has been...we just haven't been able to get them to comply. That would suggest to me that they know there is a problem, but don't want to deal with it, or are willing to look the other way. I suggested fines, not unlike what the EPA might do to any other type of factory, his response was...we can't do that. It might put them out of business.

---

What is more important to the mission of the EPA, protecting the environment, or the business' bottom line?

Let's move on to the next issue, which is under the parameters of the new proposed transfer of authority.

The Vreba-Hoff application to install a 5400 head factory dairy.

Under the rules of HR141, the bill that transferred the authority from the EPA to the ODA, the very first hurdle was a background check. If any person or entity applying for the permit has a history of any violations of any substance the director is to deny the application. If the applicant files false information, or lies on the application, the director must deny the application.

( Keep in mind, you are contemplating giving them the total and complete authority for the NPDES permits, the only regulation that is not under their control. Is there any reason to believe they will honor your guidelines any better than they have adhered to the first set of regulations.

As part of the application, logically the applicant needs to list his, or the company's name. It also asks if they have in the past 5 years operated a CAFO, If so did you have any violations.

In part A1 of the application (A copy of the application is enclosed)

The applicant enters the name Orleton Farms, WHM van Bakel, Managing partner.

Later he signs and prints his name.

In part A5 It asks if the applicant has operated a CAFF in the past five years immediately preceding the date of the application

Note his response...None (this is a fraudulent statement)

You will also note that for some reason he has changed the name perhaps to disguise the fact he is lying on question 5., and question 4 as well.

At this point this application should have been rejected.

One of the authors of HB141 Chris Widener is intimately familiar with the law that was given to the ODA to administer. In his opinion, the application should have been rejected because of the fraudulent statement. The ODA obviously no longer feels that they need to adhere to those guidelines that were carefully thought out to protect Ohioans and the waters of this State. Instead they are committed to satisfying the Farm Bureau, and

protecting industries that are exclusively committed to making money with no regard for people or the environment.

These pages of the application are included for you to review.

What happens now is very interesting, and I hope for you very concerning.

William H van Bakel, and his company Vreba-Hoff has quite a reputation.

In Michigan, Indiana, and Ohio they have set up countless Cafo's many under the 700 head guideline to escape regulations, on occasion multiple farms next to each other but separately owned, using common equipment. They have amassed hundreds if not thousands of violations. Everything from dumping on frozen ground, countless spills into lakes and rivers, radical over application, indeed saturation of soil, moving the depth indicator in the manure lagoon because they were above the allowed levels, just to name a few. He and his partners have many names. I have included a list of their many aka's. Just that should tell you something.

When they, the ODA, came to Madison County to garner the support of the community, they did a very impressive power point presentation, you may have seen it yourselves. In that presentation, they don't want you to associate the project with the Vreba-hoff name. In fact in the presentation, their Manure Management guru, Tom Menke, ( you heard his testimony on Nov 18<sup>th</sup> in Columbus), specifically states verbally, and in writing on the screen "This is not Vreba-Hoff" It is a farmer gentleman WHM van Bakel.

This is a presentation with Kevin Elder by his-side, stating that this is not Vreba-Hoff.

A bigger lie could not have been told. And they did the presentation 3 times, and told every one three times including several legislators, that it was not Vreba-Hoff!!!

This is Tom Menke, the ODA primary consultant on manure management and the owner of the "Earth Mentor" manure management system that is, as of right now, not proven, and has failed it's initial tests in Michigan. (While I realize you are only concerned with Ohio right now, I know the Farm Bureau will be pushing for the same transfer in Michigan, Indiana and ultimately across the country.

As a side note, it is my understanding that the ODA's independent advisory council includes Tom Menke, a representative from the Farm Bureau, and a Vreba-hoff attorney. Now there's an unbiased lot.

Finally,

I am including a set of letters.

As a result of Sen. Austria expressing some concern about the Orleton Dairy ( they will spread manure less than a mile from an elementary school, just barely a mile from a community of over 2000 people, and on the headwaters of the Darby, a protected sanctuary of wildlife.

A representative of the ODA, Adam Ward, ( he also testified in Columbus on the 18<sup>th</sup>) sent Sen. Austria a letter to ease his concerns.

Please read his response, then compare it to our analysis of his statements compared to historical fact.

What you will find is that the ODA will say whatever they think you want to hear, to gain absolute control of permitting these CAFO's and to allow any individual or company to operate one.

If they misrepresented the truth to a legislator, why would they not do the same to you?

To date their track record when dealing with good farmers like many that you heard the other night, is probably okay. The problem is, the new breed has only one issue."show me the money" most are not Americans, most could care less about the soil. They are not spreading the liquid sewage to fertilize, they are spreading it to get rid of it. If they thought they could get away with dumping in a river, or in the case of Michigan into lake Huron, they will do it in a minute. The EPA will bust them, the ODA will not. Check the records, the ODA has not issued any amount of fines.

You appear to care about our country. I am sure that you must wince when you think about dumping coal mining sludge into the rivers, or going back to burning hi- sulfur coal.

The time may come when it is right to turn this over to the ODA, it's just not today. Give them some time to prove they can deal with the people who are not good stewards of the land. When you see the fines starting to build, then you know they can carry that torch that the EPA has carried for these many years.

I know the Farm Bureau is a very intimidating organization, and most elected officials won't even think of crossing their path, but you can stand up and do what is right. If additional documentation from other parts of the state would be helpful, we will be glad to provide that for you.

Thank You for your careful thought in this matter.

Very Sincerely,

A solid black rectangular redaction box covering the signature area.

**Gary Feliks @ O'Connor's Office Products**

---

**From:** [REDACTED]s @ O'Connor's Office Products" <[REDACTED]@oconnorsoffice.com>  
**To:** <rmargo@senate.state.oh.us>  
**Sent:** Saturday, November 15, 2008 12:11 PM  
**Subject:** Fw: [ohiocafos] Government Report Links Factory Farms to Harmful Air Emissions, Water Pollution

This is the summary of the congressional committee's sentiments on the wisdom of give the authority to the ODA

It is rather interesting.

Thanks,

[REDACTED]

----- Original Message -----

**From:** "[REDACTED] @ O'Connor's Office Products"  
<[REDACTED]@oconnorsoffice.com>  
**To:** <Arielle.williams@mail.house.gov>  
**Sent:** Thursday, September 25, 2008 9:37 AM  
**Subject:** Fw: [ohiocafos] Government Report Links Factory Farms to Harmful Air Emissions, Water Pollution

---

- > Arielle,
- > This goes into greater depth as to what transpired at the hearing.
- > The USEPA has been trying to push this through for several years. There
- > have been numerous studies that all come back with the same findings.
- > The Ohio Dept of Agriculture ( ODA) is not prepared, nor inclined to
- > enforce any regulations despite their statements to the contrary.
- > While the massive amount of manure, in a liquid form is a major problem,
- > air and ground water pollution are just as big a problem.
- > The ODA cannot effectively promote factory farming and regulate it any
- > more than The electric company should be authorized to regulate it self.
- > There are no controls for monitoring or controlling dangerous gasses
- > coming from these CAFO's (Concentrated Animal feeding Operations) also
- > referred to as CAFF's
- > The push to transfer this authority is coming from the farm bureau, and
- > agribusiness sector, as well as the ODA. Anyone that does not have a
- > financial stake in this matter is apposed to giving the ODA any additional
- > Authority.
- >
- > Thank you for passing this info on to Rep. Pryce. As you know, Madison
- > County would elect her 10 more times. We will miss her, and thank her for
- > all she has done for us. While the county is largely agricultural,
- > practically every farmer in the county knows that this entire CAFO/ODA
- > situation is in dire need of being restructured.
- > Thanks Again,
- > [REDACTED]
- > [REDACTED]
- > London, Ohio 43140
- >
- > Please continue to read the text below

>  
 > ----- Original Message -----  
 > From: "Laurel Hopwood" <lhopwood@roadrunner.com>  
 > To: <ohiocafos@yahoogroups.com>  
 > Sent: Wednesday, September 24, 2008 1:20 PM  
 > Subject: [ohiocafos] Government Report Links Factory Farms to Harmful Air  
 > Emissions, Water Pollution  
 >  
 >  
 > News from Congress  
 > For Immediate Release: September 24, 2008  
 > Contact: Jodi Seth or Alex Haurek(Energy and Commerce), 202-225-5735  
 > Mary Kerr (Transportation and Infrastructure), (202) 225-6260  
 >  
 > Government Report Links Factory Farms to Harmful Air Emissions, Water  
 > Pollution  
 >  
 > Lawmakers Question EPA Plan to Loosen Air And Water Reporting Requirements  
 >  
 > Washington, D.C.—A Government Accountability Office (GAO) study released  
 > today says that large factory farms, known as Concentrated Animal Feeding  
 > Operations (CAFOs), can emit dangerous levels of airborne and waterborne  
 > pollutants. The report concludes that these operations can potentially  
 > degrade air quality because large amounts of manure may emit unsafe  
 > quantities of ammonia, hydrogen sulfide, and particulate matter, and they  
 > can potentially degrade water quality because pollutants in manure such as  
 > nitrogen, phosphorus, bacteria, and organic matter could enter nearby  
 > water  
 > bodies.  
 >  
 > Both the Environmental Protection Agency (EPA) and the Agency for Toxic  
 > Substances and Disease Registry have determined that exposure to ammonia  
 > and hydrogen sulfide can have harmful health effects, even resulting in  
 > death at high concentrations.  
 >  
 > The results of the 18-month GAO study come as key Members of Congress are  
 > challenging a controversial proposal by EPA that would lift release  
 > reporting requirements of airborne pollutants from CAFOs, despite the fact  
 > that EPA's own scientists have found hydrogen sulfide and ammonia to be  
 > powerful pollutants with potentially serious health effects. Further,  
 > despite clear evidence of the link between animal feeding operations and  
 > impaired water quality, EPA is on the verge of approving a new Agency  
 > rulemaking that restricts Federal authority under the Clean Water Act to  
 > only the most egregious polluters to the nation's waters – those  
 > facilities  
 > with chronic ongoing discharges of animal waste runoff into rivers,  
 > streams, and lakes.  
 >  
 > Today's GAO report was requested by Reps. John D. Dingell (D-MI), the  
 > Chairman of the Committee on Energy and Commerce, James L. Oberstar  
 > (D-MN),

- > the Chairman of the Committee on Transportation and Infrastructure, Gene
- > Green (D-TX), the Chairman of the Environment and Hazardous Materials
- > Subcommittee, Eddie Bernice Johnson (D-TX), the Chairwoman of the Water
- > Resources and Environment Subcommittee, and Hilda Solis (D-CA), the Vice
- > Chair of the Environment and Hazardous Subcommittee. In March, Dingell
- > and
- > other Energy and Commerce Committee members wrote EPA questioning the
- > agency's proposal to eliminate reporting requirements for significant air
- > emissions from animal waste.
- >
- > "This GAO study confirms that the Bush Administration's plan to exempt
- > industrial sized animal feeding operations from emissions reporting
- > requirements is nothing more than a favor to Big Agribusiness at the
- > expense of the public health and communities living near these
- > facilities,"
- > said Rep. Dingell.
- >
- > "It is clear that the clustering of agricultural operations increases the
- > probability of pollutants from animal waste degrading water quality and
- > leading to serious health concerns for area residents. If not managed
- > properly by the CAFOs, E coli and other pathogens found in animal manure
- > can contaminate fresh drinking water supplies," said Rep. Oberstar.
- > "Despite 35 years of Clean Water Act authority to address pollution from
- > CAFOs, I am troubled that EPA simply does not have a sufficient
- > understanding of the scope of the problems, let alone a comprehensive
- > solution to protect the nation's waters from potential contaminants. This
- > is a recipe for serious impairment of the nation's water supplies from
- > known and controllable sources."
- >
- > "The EPA's own science demonstrates that animal waste can cause health
- > problems, and this report found that the EPA lacks accurate data on large
- > animal feeding operations," Rep. Green said. "As a result, we are highly
- > skeptical of the Administration's proposal to exempt them from reporting
- > hazardous releases."
- >
- > "We realize that the livestock and poultry industry is vital to our
- > nation's economy, and that animal manure can be used beneficially on farms
- > to fertilize crops and restore nutrients to soil, but we also know that if
- > improperly managed manure and wastewater from animal feeding operations
- > can
- > adversely impact water quality through surface runoff and erosion, direct
- > discharges to surface water, spills and other dry-weather discharges and
- > leaching into the soil and groundwater." said Rep. Johnson. "We must
- > guard
- > against this."
- >
- > "This report makes it clear that the EPA has failed to assess the extent
- > to
- > which pollutants linked to animal waste may be impairing human health and
- > the environment," said Rep. Solis. "The EPA's proposal to exempt
- > industrial

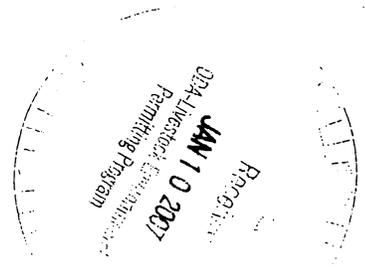
- > sized animal feeding operations from emissions reporting requirements is
- > not only irresponsible but also careless and neglectful."
- >
- > The GAO report made the following findings:
- >
- > Some operations generate more raw waste than U.S. cities produce
- > annually. For example, a beef cattle farm with 140,000 head of cattle
- > could produce over 1.6 million tons of manure annually, more than the
- > almost 1.4 million tons of waste generated by more than two million
- > residents of Houston, Texas.
- >
- > The number of CAFOs increased by about 230 percent over the past 20
- > years from about 3,600 in 1982 to almost 12,000 in 2002. The number of
- > animals raised on large farms also increased from more than 257 million
- > in 1982 to over 890 million in 2002, an increase of 246 percent.
- >
- > EPA has not yet assessed the extent to which air and water pollution
- > from CAFOs may be impairing human health and the environment because it
- > lacks key data on the amount of pollutants that CAFOs are discharging.
- > ~~At least 15 studies have directly linked air and water pollutants from~~
- > animal waste to specific health or environmental impacts and 12 other
- > studies have made indirect linkages between pollutants from animal waste
- > and health and environmental impacts.
- >
- > EPA has neither the information it needs to assess the extent to which
- > CAFOs may be contributing to water pollution, nor the information it
- > needs to ensure compliance with the Clean Water Act. The EPA lacks
- > reliable, comprehensive data on the number, location and size of CAFO
- > operations that have been issued permits and the amount of discharges
- > they release.
- >
- > EPA does not have the information it needs to effectively regulate
- > CAFOs.
- >
- > EPA may be less likely to seek enforcement against a CAFO that it
- > believes is discharging pollutants into a water body because it is now
- > more difficult to prove that the water body is federally regulated. The
- > GAO found that a 2006 Supreme Court decision regarding the jurisdiction
- > of the Clean Water Act has also complicated EPA's enforcement of CAFO
- > regulations. Further, GAO noted that EPA's Assistant Administrator for
- > Enforcement and Compliance Assurance stated in a memorandum that the "
- > Rapanos decision and EPA's guidance has resulted in significant adverse
- > impacts to the clean water enforcement program."
- >
- > GAO questioned EPA's proposed rule to exempt animal feeding operations
- > from reporting emissions of ammonia and hydrogen sulfide above 100
- > pounds per day because EPA "has not yet completed its data collection
- > effort and does not yet know the extent to which animal feeding
- > operations are emitting these pollutants." The Comprehensive
- > Environmental Response, Compensation, and Liability Act (CERCLA) and the
- > Emergency Planning and Community Right-to-Know Act (EPCRA) reporting

- > requirements provide government authorities, emergency management
  - > agencies, and citizens with information about the source and magnitude
  - > of hazardous releases into the environment.
  - >
  - > On September 24th, the Committee on Energy and Commerce's Environment and
  - > Hazardous Materials Subcommittee will hold a hearing on CAFOs and the
  - > EPA's
  - > proposal to eliminate air emission reporting requirements under CERCLA and
  - > EPCRA for animal feeding operations. Representatives from the GAO and the
  - > EPA are among those scheduled to testify.
  - >
  - > The GAO report is available at:
  - > [http://energycommerce.house.gov/Press\\_110/110\\_EHM\\_CAFOGAO.pdf](http://energycommerce.house.gov/Press_110/110_EHM_CAFOGAO.pdf)
  - >
  - > The March letter to EPA is available at <http://energycommerce.house.gov/>
  - >
  - > -----
  - >
  - > Yahoo! Groups Links
- 

- > <\*> To visit your group on the web, go to:
- > <http://groups.yahoo.com/group/ohiocafos/>
- >
- > <\*> Your email settings:
- > Individual Email | Traditional
- >
- > <\*> To change settings online go to:
- > <http://groups.yahoo.com/group/ohiocafos/join>
- > (Yahoo! ID required)
- >
- > <\*> To change settings via email:
- > <mailto:ohiocafos-digest@yahoogroups.com>
- > <mailto:ohiocafos-fullfeatured@yahoogroups.com>
- >
- > <\*> To unsubscribe from this group, send an email to:
- > [ohiocafos-unsubscribe@yahoogroups.com](mailto:ohiocafos-unsubscribe@yahoogroups.com)
- >
- > <\*> Your use of Yahoo! Groups is subject to:
- > <http://docs.yahoo.com/info/terms/>
- >
- >

PACKETT "A"

Permit Part A General Information - Orleton Farms, LLC 01/05/07



**Part A GENERAL INFORMATION**

The following general information is required for all permits.

- 1. **Owner's/Operator's Name and Address and Signature**  
 Note: If there is more than one owner/operator or if this is a Corporation or Limited Liability Partnership (LLP) all owner/operators, officers, directors, partners or others that have a right to control the facility must be listed below. If there are more than two names, add the names, addresses and phone numbers of all additional individuals on a separate piece of paper. At least one owner/operator must **sign and certify** the permit application Rule 901:10-2-01) Any change in owner/operator before a final decision is made on any permit requires signature and certification by the new owner/operator

Owner Name: Orleton Farms, LLC  
 Mr. W.H.M. van Bakel, managing member  
 Address: 2920 Quarry Rd.  
 City: Maumee  
 State: OH Zip: 43537  
 Phone: (517) 937-1356  
 Fax: (419) 335-1924  
 E-mail:

**Application Received 1/9/07**  
**Application In Review Process**

Operator Name: Orleton Farms, LLC  
 Mr. W.H.M. van Bakel, managing member  
 Address: 2920 Quarry Rd.  
 City: Maumee  
 State: OH Zip: 43537  
 Phone: (517) 937-1356  
 Fax: (419) 335-1924  
 E-mail:

**Signature**

"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 information, the information is, to the best of my knowledge and belief, true and accurate and complete I am aware there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations" 901:10-1-02(A)(8)

← HIS SIGNATURE

Name of the owner or operator (Signature here), member Orleton Farms, LLC

W.H.M. van Bakel

← W.H.M. VAN BAKEL

Date 01-09-2007

PART A OF  
APPLICATION FOR PERMIT INSTALL

3. **Other Animal Feeding Facilities.** This information shall be completed by both the owner and the operator, where the operator is not the owner. Please specify who is the "owner" and who is the "operator."

The owner and operator of the dairy is Orleton Farms, LLC.

4. Please list the name(s) of AFFs or CAFFs that the applicant for the current permit has operated (during the five-year period immediately preceding the submission of the current permit application) or is operating in Ohio. Please include the location and/or address(es) and the name of the county. Please provide any and all permit identification numbers.

*THIS IS A SOLICITED RESPONSE*

\* None

\*

**Application Received 1/9/07  
Application In Review Process**

*ASK IF THEY HAVE OPERATED A CAFF IN PAST 5 YEARS*

5. Please list the name(s) of AFFs or CAFFs that the applicant has operated (during the five-year period immediately preceding the submission of the current permit application) or is operating elsewhere in the United States and that are regulated under the Federal Water Pollution Control Act. Please include the location and/or address(es) and the name of the county. Please provide any and all permit identification numbers.

\* None

\*

\*

6. Please list the name(s) of AFFs or CAFFs that the applicant has operated (during the five-year period immediately preceding the submission of the current permit application) or is operating outside the United States. Please include the location and/or address(es) and the name of the county. Please provide any and all permit identification numbers. Please provide the addresses of the regulating entities.

\* None

\*

\*



*BACK TO ORLETON*

If the operator of the CAFF is a person who is not the owner, identify the operator.

N/A

For example, the following questions describe the nature of an operator:

Is this person employed or to be employed to be responsible for the direct control or overall operations of the CAFF? Yes

Will this person's duties or responsibilities involve, in whole or part, the management of the facility and the exercise of independent or discretionary judgment? Yes

Will this person have the right to control or in fact control management of the facility and or the selection of officers, directors, or managers of the CAFF? Yes

Is this person employed (or to be employed) in a supervisory capacity for the facility? Yes

**Application Received 1/9/07**  
**Application In Review Process**

"Right to control or in fact controls management of the applicant or of the owner" means an individual who has authority which:

- (1) Is delegated in the interest of the employer;
- (2) Involves the exercise of that individual's independent judgment;
- (3) Is not merely authority to perform a routine or clerical task; and
- (4) Has authority to perform or effectively to recommend any one or more of the following actions: hiring, firing, transferring, suspending, laying off, recalling, promoting, discharging, assigning, rewarding, disciplining, directing, or adjusting grievances of, employees whose duties or responsibilities involve, in whole or part, the management of (including but not limited to the evaluation of, identification of, (the effects of), handling of, transportation of, storage of, or treatment of, application of manure.

"Right to control or in fact controls management of the applicant or of the owner" includes any individual who has an agreement that grants authority to operate the CAFF as set forth in a contract with the applicant or permittee or the prospective owner.

- (1) Is there a contract?
- (2) Are there employees of the contractor who are employed in a supervisory capacity for the subject facility; or
- (3) Are employees of the contractor empowered to exercise independent judgment for the subject facility.



Wilhelmus van Bakel, Alexander van Bakel, and Henricus van Bakel own Orleton Farms, LLC indirectly through its parent companies. The Van Bakels are experienced dairymen. They grew up on and worked on their parents' dairy farm, Vreba Dairy. This dairy was established in 1956 and is currently the largest dairy farm in the Netherlands with 1056 cows and 675 heifers. They have been the co-directors (operators) of that farm for approximately two decades (Alexander for 22 years, Wilhelmus for 21 years, and Henricus for 19 years). Wilhelmus has a higher education degree in dairy management, Alexander has a vocational degree in agriculture, and Hendrices has a vocational degree in cattle management.

A department for the City of Venray in the Netherlands oversees environmental compliance at Vreba Dairy,. As demonstrated by Venray's letter, Vreba Dairy's environmental record has been exemplary, with no violations.

Through their indirect ownership interest in Vreba Dairy BV, the Van Bakels have an indirect ownership interest in other companies affiliated with Vreba Dairy BV. More information about these affiliates can be obtained from the Supplemental Compliance Information for Orleton Dairy Leasing, LLC, which is incorporated herein by reference. The Van Bakels do not operate any animal feeding operation associated with these affiliates. Accordingly, only the environmental history of Vreba Dairy is relevant to this background check.

As to background relevant to this application, Vreba Dairy operated by the Van Bakels has a spotless environmental record. Therefore, Orleton Farms, LLC has sufficient reliability, expertise, and competence to operate Orleton Dairy in substantial compliance with ODA's requirements.

*THIS IS A NON-SOLICITED RESPONSE*

**Application Received 1/19/07**  
**Application In Review Process**

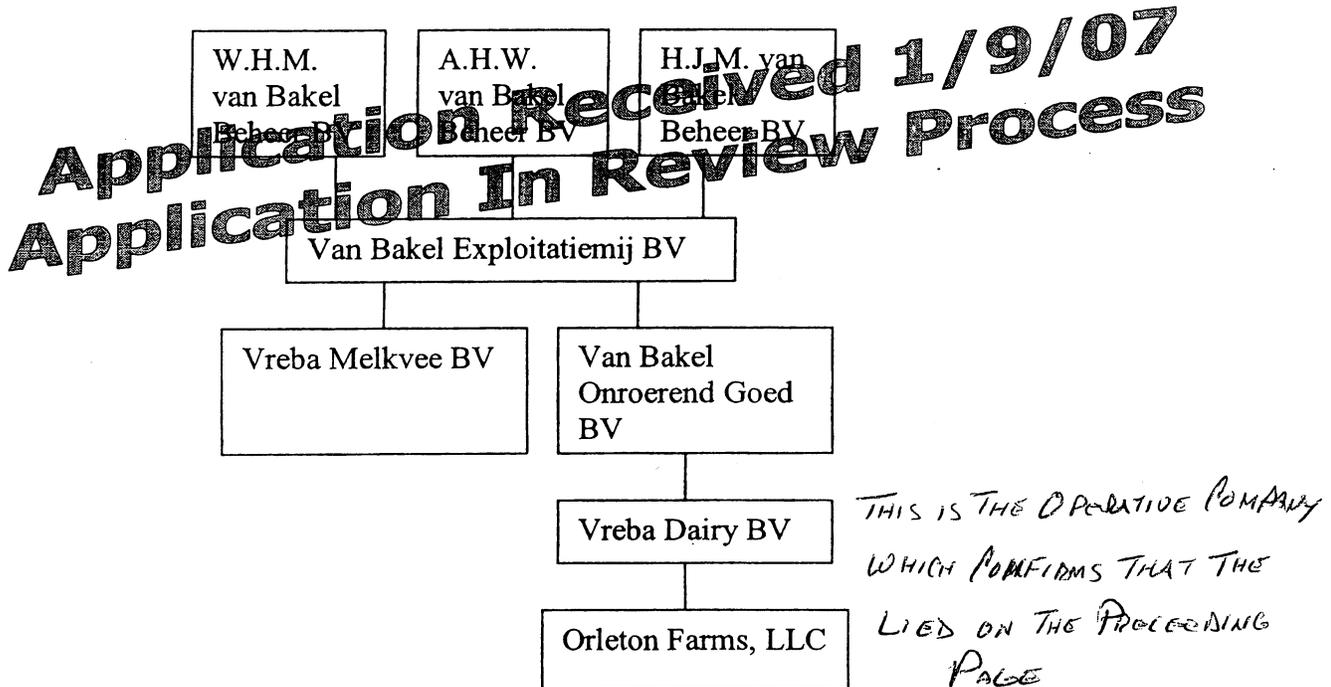
← THE LINE IS NOT AN HONEST RESPON. IN LAYMAN'S IT A LIE

SUPPLEMENTAL COMPLIANCE INFORMATION  
FOR ORLETON FARMS, LLC

Orleton Farms, LLC will be the owner and operator of Orleton Dairy. Vreba Dairy BV<sup>1</sup> is the sole member of Orleton Farms, LLC. Vreba Dairy BV in turn is owned by Van Bakel Onroerend Goed BV, which is owned by Van Bakel Exploitiemij BV. Van Bakel Exploitiemij BV is owned by W.H.M. van Bakel Beheer BV, A.H.W. van Bakel Beheer BV, and H.J.M. van Bakel Beheer BV, which are owned respectively by Wilhelmus van Bakel, Alexander van Bakel, and Henricus van Bakel (hereinafter referred to as the "Van Bakels").

Another subsidiary of Van Bakel Exploitiemij BV named Vreba Melkvee BV owns and operates a dairy named Vreba Melkvee (Vreba Dairy) in the Netherlands.

The following organizational chart depicts the relationships among these companies:



Orleton Farms, LLC is a new company that has not previously owned or operated a dairy. Accordingly, the company itself has no environmental record to report.

Aldert Nieuwenhuis and Johannes Jansen will make the day-to-day decisions for the company. Aldert Nieuwenhuis will be the business manager for Orleton Dairy responsible for office management, finances, and administration. Johannes Jansen has a decade of experience in dairy herd management and milk production as a veterinarian.

<sup>1</sup> A BV is a business form created in the Netherlands for a company that has some characteristics of an American corporation and some traits of an American limited liability company.

Senator Steve Austria  
Statehouse, Room 132  
Columbus, OH 43215

Dear Senator Austria,

We greatly appreciate your inquiries on our behalf regarding the proposed Orleton CAFO near our communities and school. We also extend our thanks to Mr. Ward of the Ohio Department of Agriculture (ODA) for his letter dated August 4, 2008, and are hopeful for a continued meaningful dialog with the department. Unfortunately, we find several of the assertions within the letter do not coincide with published scientific and historical information. Our purpose with this writing is to provide this information to insure you have an accurate understanding of the basis for our concerns regarding the proposed Orleton CAFO.

Although we who endorse this letter are a diverse group of your constituents, our commonality is in the knowledge the long term economic and environmental interests of Madison County are in conflict with the proposed CAFO. Those that are farmers are gravely concerned about agriculture's continued vitality and acceptance in view of the damage CAFOs are causing across Ohio. Our goal is to dispel the stale rhetoric on both sides of the question of industrialized agriculture, in favor of a fact based dialog which we're confident will bring substantive common sense changes to the regulatory landscape.

It is our hope you'll join us, along with U.S. Fish and Wildlife, the Ohio EPA, and our Soil and Water district office; all of whom express serious concerns about building this facility within the Darby Watershed. Thank you for your attention to this matter, and know we anxiously await your response.

Sincerely,

The residents of Lake Choctaw and rural Madison County

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

- I. **Mr. Ward writes:** “*This application requires the farm to adhere to over 250 pages of regulations that are considered to be the most stringent in the United States.*”

**Response:** Federal law dictates the framework of state’s permitting programs. Therefore, rules such as requiring geological explorations, manure and insect management plans, and detailed engineering drawings are not unique to Ohio. To the credit of the ODA their rules go beyond the federal minimums in some aspects, but to say they are the most stringent in the United States may be no more hubris. For example, several important agricultural states have recognized the need to protect public health through regulating Hydrogen Sulfide emissions from CAFOS. Such protections are noticeably absent from Ohio law. The following is a synopsis of other state’s additional health protections:

- The Minnesota Pollution Control Agency has established an ambient air quality standard for hydrogen sulfide at the property line of operations larger than 1000 animal units, and also requires these facilities to include an Air Emission Plan in their water quality permit. Furthermore, the Nebraska Department of Environmental Quality has implemented an ambient air quality standard for total reduced sulfur, which includes hydrogen sulfide from CAFOs.
- In addition to air emissions several states have also recognized the need to regulate odor from CAFOs. Colorado has established a dilution standard of 7:1, meaning that an air sample collected at the CAFO’s property line is diluted with seven parts air. If odor can still be detected after dilution by an olfactometer it is deemed a violation. Missouri also uses an olfactometer to enforce odor regulations.
- The North Carolina Division of Air Quality uses a complaint response system that requires formal investigation of odor complaints. If a determination of an “Objectionable Odor” is made, then additional management practices have to be approved and installed. If management practices fail, then the facility must install add-on control technology.
- By statute Indiana allows Counties the liberty to enact ordinances for CAFO setbacks. Ordinances creating minimum setbacks based on the number of animal units from “...*churches, daycares, schools, and medical facilities because the people that frequent these facilities (children, elderly, and ill) have an increased need for protection from air emissions because of their heightened susceptibility.*” Similar common sense ordinances or statues would obviously preclude the Orleton CAFO from being sited only 1/3 or mile up wind of our community’s Elementary School, or on a property that drains into a National Scenic waterway containing 37 rare and endangered species.

Finally, many states also have nuisance laws that allow citizens to sue for nuisance violations, including objectionable odor. In contrast, Ohio statutes (3767.13(D), 929.04,

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

903.13) have a combined affect of making citizen suits all but impossible. We have no comprehensive comparison between Ohio and other state's regulations. However the absence of CAFO emissions regulations, a lack of other common sense site and setback standards, and the virtual immunity of CAFOs from nuisance suits are indicative of Ohio's regulatory inadequacy. Ohio must join other states in doing more to protect the environment, communities, and our most vulnerable citizens from industrialized agriculture.

II. **Mr. Ward writes:** *"For the first time, specialized agriculture inspectors enforce regulations..."*

**Response:** The available historical data shows Ohio is not vigorously enforcing the regulations. For example, over a 4 year span ending July 2006, Ohio enforcement actions against animal feed operations cost the operators a total of \$6,660.81. During the same period the U.S. EPA found Ohio AFOs/CAFOs had violated the law on numerous occasions, which ultimately cost these operations over \$1,314,000.00 in compliance costs. The U.S. EPA found more Ohio operations in violation than anywhere else in the United States. Any prudent person must ask themselves why these violations were not addressed by the ODA and OEPA, leaving the federal government to step in and protect the environment. More recent data suggests a continued use of ineffectual deficiency notices and infrequent inconsequential fines against CAFOs. Even if Ohio had "...the most stringent regulations in the United States," they offer no protection to the environment or the public if they're not enforced, or fail to be adequate deterrents against violations.

III. **Mr. Ward writes:** *"There are currently 168 permitted farms in Ohio and, since the ODA began regulating large livestock and poultry farms 5 1/2 years ago, there has been only one fly complaint and two odor complaints at a permitted dairy."*

**Response:** This statement attempts to portray Ohio CAFOs and AFOs as environmentally benign. However, the statistics reveal a very different reality. Available historical data between 2002 and 2006 reveals numerous odor complaints, **an average of 7 sewage discharges per month from these operations into the waters of the state, and over 1 fish kill per month during this time period.** By any reasonable measure the prescribed best management practices, the facility operators, and the ODA have failed to protect the environment and the public. These statistics demonstrate how irresponsible it is to even contemplate building the Orleton CAFO within the Darby watershed. It's a certainty a discharge will ultimately occur and destroy a national scenic river along with 37 rare and endangered species.

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

- IV. **Regarding air quality concerns Mr. Ward writes:** *“...the nearest residence to Orleton Farms would be at least one mile away, the Choctaw Lake NE homes are two miles from the proposed manure processing facility and three miles from the proposed dairy barns. ...Monroe Elementary School is two miles from the proposed manure processing facility and 1.3 miles from the proposed dairy barns...”*

**Response:** These statements ignore the fact that all tillable property of the facility is part of the manure management system, since spreading (land-applying) the sewage on the property IS the ultimate means of disposing/managing the waste. Based on U.S. EPA emission models, the emissions from land-application of waste constitute an enormous percentage of the total hazardous emissions from these facilities. Therefore, the reality is numerous homes along Milford Center road are within 800 feet, the Choctaw Lake community within 1.15 miles, and Monroe Elementary 1/3 of a mile down wind from these emission sources.

In addition, the ODA cited an important air quality study conducted by the University of Iowa in attempting to assuage our health concerns regarding emissions from the proposed CAFO. However, critical conclusions from the Iowa study group were omitted from the ODA response. For example the study asserts the following:

- *“With current animal production practices, stored manure must be removed and land-applied. During these times hydrogen sulfide, ammonia and odor levels at or near production facilities may be significantly higher than during normal conditions.”*
- *“Hydrogen sulfide and ammonia are recognized degradation products of animal manure and urine (See Chapter 3.4 in the full report). Both of these gases have been measured in the general vicinity of livestock operations at concentrations of potential health concern for rural residents, under prolonged exposure (See Chapter 8.0).”*
- *“The World Health Organization lists hydrogen sulfide as a toxic hazard in many environments, and recommends specific exposure limits. The ATSDR lists hydrogen sulfide and ammonia on its registry of toxic substances<sup>1</sup> under its federal mandate to protect the public health according to the Comprehensive Environmental Response, Compensation, and Liability Act...” “Furthermore, the ATSDR has published Minimum Risk Levels (MRL’s) for these substances to protect the public’s health.<sup>1</sup>”*
- *“While emissions from CAFOs fluctuate over time, they produce chronic rather than acute exposures. Rather than representing single doses, these exposures are recurring and may persist for days with each episode.*

The National Institutes of Health conducted a study of children attending Elementary Schools near CAFOs and concluded:

*“A significant difference was found in the prevalence of physician-diagnosed asthma among students in the two schools studied. In the study school, located near a CAFO, the*

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

*asthma prevalence was quite high, 19.7%, approaching the prevalence of asthma reported among inner-city socioeconomically disadvantaged children.”*

Furthermore, the American Public Health Association reviewed all of the available scientific research and concluded that although additional data and research are required, recommended a moratorium on the construction of CAFOs citing:

*“...encouraging as a precautionary principle--"that public health decisions must often be made in the absence of scientific certainty, or in the absence of perfect information"--action to prevent potential harm to reproductive health, infants and children, even if some cause and effect relationships have not been established with scientific certainty;42 while noting that children suffer disproportionately from asthma; while fetuses, infants and children are more vulnerable to adverse impacts from bacterial and antimicrobial-resistant infections,43-45 as well as from exposure to neurotoxins,46 all health impacts to which existing science suggests that emissions from CAFOs may contribute;...”*

In public policy statements from the Federal Farm Bureau Federation, as in the letter from the ODA, the phrase “sound science” is used as a justification to oppose any additional meaningful regulations to reduce the health and environmental impacts of CAFOs. This rhetoric simply doesn’t withstand a thorough review of the scientific literature; period. To allow this massive agricultural facility so close to the communities of Lake Choctaw, Plumwood, and an Elementary School is to disregard “sound science” in favor of corporate interests and the agricultural lobby.

**V. Mr. Ward writes:** *“Orleton Farms proposes to implement the EarthMentor manure processing and treatment system that is designed to greatly decrease, if not eliminate, any hydrogen sulfide emissions.”*

**Response:** This statement is patently incorrect. The EarthMentor system relies on anaerobic bacteria concentrations in enormous sewage lagoons to “treat” the waste. This process is called anaerobic digestion. The natural byproduct of this bacterial consumption is Hydrogen Sulfide gas which is emitted from the lagoon(s) on an almost continuous basis. Furthermore, as stated in the Iowa study, additional emissions of Hydrogen Sulfide would be emitted when the waste is sprayed/land applied to the fields near the Elementary School and Lake Choctaw community. Therefore, contrary to Mr. Ward’s statement, the EarthMentor system does not eliminate Hydrogen Sulfide emissions, it is the major source of them.

Lastly, recent information obtained from the Michigan Department of Environmental Quality indicates the EarthMentor systems installed at large dairies within their State is failing miserably in “treating” the waste. The MDEQ has therefore prohibited the land-application of the waste by the affected dairies.

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

- VI. In response to our concerns about discharges into the Darby Creek Mr. Ward writes:** “Discharges of manure and nutrients into the waters of the state are not only unacceptable, but illegal.”

**Response:** Agreed. However, this fact has not prevented over 312 manure discharges into the waters of the state or prevented over 60 fish kills. Again, lax enforcement of the rules and insignificant fines are not a deterrent to such destruction of our waters.

- VII. In reference to concerns about reductions in real estate values Mr. Ward writes:**  
“...a leading agricultural realtor in central Ohio...did keep records on property values sold near the Buckeye Egg Farm...sold for more money than the value on the tax cards. ...when a large livestock farm starts up in the area, land prices actually increase in value.”

**Response:**

A realtor’s feelings on this matter are irrelevant. Instead we offer the following from John A. Kilpatrick a partner and senior analyst with Mundy Associates, LLC, an economic, market, and valuation firm specializing in complex real estate matters. Kilpatrick is the author of four books and numerous articles on real estate matters, and is a frequent speaker on real estate economics and valuation. The excerpts are as follows:

*Concentrated Animal Feeding Operations and Proximate Property Values  
Abstract  
The Appraisal Journal July 2001, Volume LXIX Number 3*

- **University of Minnesota Study**  
*In 1996, the Minnesota Department of Agriculture commissioned a study by researchers at the University of Minnesota on the topic of value diminution resulting from proximate CAFOs. In addition to substantial secondary research in the area, the study authors also conducted primary research into value impacts in that state. Specifically, they conducted a hedonic price analysis on 292 rural residences that were sold during 1993-1994 in two Minnesota counties. They found a statistically significant pricing impact related both to the existence of a CAFO as well as the distance from the CAFO. In other words, not only does a CAFO have a significant impact on property value, but the nearer the CAFO, the greater the impact. The researchers also found that CAFOs tend to be located near older or lower valued homes. Hence, the pricing impacts in a simple empirical study may be muted by other negative impacts to value, and high-valued residences may be impacted to a greater degree by CAFOs than would be suggested by their findings.*

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

- **University of Missouri Study**

*Following the methodology of the Minnesota study, researchers at the University of Missouri were able to quantify both the average value impact of a CAFO and the impact by distance. An average vacant parcel within 3 miles of a CAFO experienced a value loss of about 6.6%. However, if that parcel was located within one-tenth of a mile from the CAFO (the minimum unit of measure in the study) and had a residence on it, then the loss in value was estimated at about 88.3%.*

- **North Carolina Study**

*Palmquist, et. al, were the first to quantitatively determine that the distance from a residence to a CAFO has an impact on residential values. However, their study looked only at residences already near CAFOs and measured the impacts of additional CAFO capacity (either new CAFOs or additional livestock at existing CAFOs) located at 0.5-, 1.0-, and 2.0-mile distances from the residence. Nonetheless, they established a methodological model for spatial impacts of CAFOs.*

- **Summary and Conclusions**

*“The above suggests that the establishment of a CAFO may result in value diminution to other nearby properties. The amount of the value loss is typically an inverse function of distance (closer properties diminish more), a function of property type (newer, nicer residences lose more), and a function of property use (farm will lose value due to diminished productivity and comparative marketability to other farm lands). While the appraisal profession has only begun to quantify the loss attributable to CAFOs, **it is clear from the above case studies that diminished marketability, loss of use and enjoyment, and loss of exclusivity can result in a diminishment ranging from 50% to nearly 90% of otherwise unimpaired value.**”*

**VIII. Mr. Ward writes:** “According to data released by the Ohio Livestock Coalition (OLC), the proposed new dairy farm in Madison County would be a \$35 million project that would result in the direct employment of 35 persons, or \$1.3 million annual local wages.” He continues indicating: “...dairy farm will purchase approximately \$12.5 million of goods and services annually...”

**Response:** We believe data provided by lobbying groups with their incumbent political and financial interests have no place in an objective and meaningful discourse on this subject. To gauge the economic affects of CAFOs on rural economies, we must rely upon data and analysis from agricultural economists and sociologists without political or economic axes to grind. For example John Ikerd, Professor Emeritus of Agricultural Economics at the University of Missouri Columbia writes:

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

*“A fundamental principle of industrialization is the substitution of capital and technology for labor and management – to make it possible for fewer people to produce more. Large-scale operations simply concentrate the jobs created in one place and call it economic development while the larger numbers of jobs lost elsewhere are ignored or denied. In total, numbers of independent livestock producers displaced will most certainly be greater than the number of jobs created in new large scale, corporate operations.”*

In addition, we encourage you to review the following studies that demonstrate the economic decline and reduced tax receipts of rural communities when CAFOs move into a locality or region:

- a)** A study by MacCannell (1988) of comparable types of communities found that the concentration and industrialization of agriculture were associated with economic and community decline locally and regionally..
- b)** Studies in Illinois (Gomez and Zhang 2000), Iowa (Durrenberger and Thu 1996), Michigan (Abeles-Allison and Conner 1990), and Wisconsin (Foltz et al. 2002) demonstrated decreased tax receipts and declining local purchases with larger operations.
- c)** A Minnesota study (Chism and Levins 1994) found that the local spending decline was related to enlargement in scale of individual livestock operations rather than crop production. These findings consistently show that the social and economic well-being of local rural communities’ benefits from increasing the number of farmers, not simply increasing the volume of commodity produced (Osterberg and Wallinga 2004).

In conclusion, we assert the foregoing rebuttals to the assertions of agricultural special interests groups and the Ohio Department of Agriculture cannot withstand a vigorous and objective examination of the science. The facts are:

- The Ohio Department of Agriculture is a deeply conflicted body due to the statutory constructs that make it both advocate and regulator of the same industry; incapable or unwilling to protect the public and the environment.
- Over 300 Elementary School children situated 1/3 of a mile down wind will essentially be guinea pigs for the over 416,000 lbs. of Ammonia gas and 20,000 lbs. of deadly Hydrogen Sulfide gas emitted by this facility each year.
- The foregoing data unequivocally shows the homes of Lake Choctaw, and properties down wind will be de-valued as a result of the proposed facility.
- Allowing the installation of a CAFO generating 280,000,000 pounds of manure annually within the pristine Darby Watershed is a reckless regulatory action of the highest order.

## Orleton Farms CAFO – Rebuttal to ODA letter dated 8/4/08

- The economy and the health of Madison County residents will be harmed by this CAFO.
- The national recognition and endangered species of the Watershed mean any discharge of manure from this facility will result in a furious public backlash. The political and legal ramifications of damaging this ecosystem are enormous. The role of CAFOs in agriculture and their continued existence in rural Ohio are at stake.

August 4, 2008

Senator Steve Austria  
Statehouse, Room 132  
Columbus, OH 43215

Dear Senator Austria:

Thank you for writing regarding your concerns about the proposed Orleton Dairy in Madison County. I appreciate you taking your time to share your views with me.

As a matter of background, this 5,290 head dairy farm is proposed to be located on one of the largest continuous tracts of land east of the Mississippi River. Dating back to 1933, the farm was once owned by the Procter & Gamble family. While the farm has been used as rented crop land in recent years, it was once one of the state's largest swine farms and in the past regularly fed out over 13,000 head of beef cattle and had large numbers of poultry, sheep and dairy cows. During those periods, there were very minimal environmental regulations.

On January 9, 2007, Orleton Farms applied for a Permit to Install (PTI) and Permit to Operate (PTO) with the Ohio Department of Agriculture (ODA) Livestock Environmental Permitting Program (LEPP) to stock 5,428 dairy cows, which would make it the largest dairy in the state. This would include 4,420 milking cows and 1,008 dry cows. No calves or heifers (young cattle) would be raised on-site. This application requires the farm to adhere to over 250 pages of regulations that are considered to be the most stringent in the United States. The information in the application, which specifies strict construction standards and management of the farm and by-products, is currently undergoing a comprehensive review by LEPP engineering and legal staff.

Your primary issues with this farm seem to be focused on the environmental and quality of life issues associated with the large amount of manure produced from large farms, and the ODA regulations that would protect the surrounding surface and ground water. Since the ODA began permitting and inspecting concentrated animal feeding facilities (CAFFs) in August 2002, there have been strict rules that regulate the timing and rate of manure application, as well as the location, weather and soil conditions at the time of application. For the first time, specialized agriculture inspectors enforce regulations

developed with the environmental community that far exceed the federal standards in 14 specific areas and that are based on sound science.

The requirements for large farms were written by an advisory committee and geological exploration subcommittee that included representatives from the U.S. Geological Service, Ohio EPA, ODNR Division of Geological Survey, U.S. Department of Agriculture, Agricultural Research Service and the Ohio Fractured Flow Work Group, as well as the Ohio Environmental Council.

Prior to ODA assuming the regulatory responsibility for large farms, the Ohio Environmental Protection Agency issued only PTIs for concentrated animal feeding operations, had no PTOs, and had no routine inspection program. Under the ODA, the state requires both a PTI and a PTO, and two on-site inspections each year. The PTI includes siting criteria, a geological report, manure storage and treatment facilities size and design plans, and information about groundwater quantity and quality – all of which exceed federal standards.

The PTO includes a manure management plan, land application setbacks, mortality management plan, methods to minimize odors, emergency response plan, insect and rodent control plan, groundwater monitoring, operators' records, and a closure plan. Proper manure management is one of the most important aspects of the Permit to Operate. There has never been a failure of a manure lagoon built in Ohio that was constructed in compliance with the U.S. Department of Agriculture, Natural Resource Conservation Service's Ohio engineering standards, from which ODA's standards are based.

It is noteworthy that, while the federal government calls for the ODA LEPP staff to inspect only 25 large farms per year, they have performed more than 1,500 inspections since August 2002. There are currently 168 permitted farms in Ohio and, since the ODA began regulating large livestock and poultry farms 5½ years ago, there has been only one fly complaint and two odor complaints at a permitted dairy.

You also mention that you were concerned about the quality of air around the facility as well. From a geographical standpoint, the nearest residence to Orleton Farms would be at least one mile away, the Choctaw Lake NE homes are two miles from the proposed manure processing facility and three miles from the proposed dairy barns. The village of Plumwood and Monroe Elementary School is two miles from the proposed manure processing facility and 1.3 miles from the proposed dairy barns, with several tree buffers in between.

I would recommend reading the 16-month air quality study conducted by the Iowa State University, Department of Agriculture and Biosystems Engineering, that measured concentrations of ammonia and hydrogen sulfide on farms and neighboring residences. The study indicated that meteorological factors, such as wind speed and solar radiation affect the concentration of hydrogen sulfide and ammonia more than the size of the operation or type of manure storage used on the farm.

The study also shows that ammonia concentrations inside residences tend to be more concentrated than ammonia levels in the air outside the residence, or at the livestock farm's property line. Dr. Steven Hoff, the study's author, said evidence suggests that ammonia levels may be related more to inhabitants' lifestyle, including smoking cigarettes and having indoor pets, than to the residence's proximity to a large livestock farm. Those results support a previous study conducted by the Department of Health and Human Services in Missouri in 2003.

There have also been studies conducted at The Ohio State University on dairy, poultry and swine facilities for air and odor emissions. This two-year odor and gas study of Ohio livestock farms does not substantiate claims that either hydrogen sulfide or ammonia gas is being emitted at hazardous levels from permitted farms in our state. Initial results of these studies indicate that emissions upwind and downwind from the livestock and poultry facilities were very similar (within 500 feet downwind). For further information regarding this study, contact OSU Extension.

Orleton Farms proposes to implement the EarthMentor<sup>®</sup> manure processing and treatment system that is designed to greatly decrease, if not eliminate, any hydrogen sulfide emissions.

Regarding odor, it is important to note that while ammonia and hydrogen sulfide are not directly regulated, the inherent characteristics of manure from a concentrated animal feeding operation (CAFO) are the same that farmers have been dealing with throughout the ages. The manure from a CAFO today is no better or no worse than the manure that all dairy producers have worked with throughout generations. The regulations that allow livestock production (using accepted agricultural practices) recognize there are dusts and odors in farming that are inherent to producing food.

The Ohio Department of Agriculture has defined rules and regulations that must be followed when issuing a Permit to Install and a Permit to Operate to large concentrated animal feeding operations. The department's Livestock Environmental Permitting Program regulates the planning and operation of these farms to make certain that best management practices are followed in the storage and application of manure to minimize odors and the threat of run-off.

ODA requires each permitted farm to have a manure management plan, so the manure is distributed and recycled properly as a nutrient to the soil, and to prevent manure run-off. Because the farm has whole-farm manure management plans, the rules require the operator to either land apply in accordance with the rules or to find adequate distribution for all the manure. Soil testing determines how much manure should be applied to farm fields and applying more is in violation of the law.

Rules require application only with available water holding capacity, thus avoiding application on saturated land. Farmers are required to monitor and control drainage tile flow. Routine inspections of farmer's actually applying manure, as well as inspections of

all their records of manure application, track this to assure they are land applying or distributing and using manure correctly. If the Orleton Farms permit would be approved and it is not followed, the farm could be subject to an enforcement action by ODA.

Your concern that there would be runoff of manure into the creeks and streams that would end up in the Big and Little Darby Creeks is certainly not an acceptable or common practice in Ohio. No farm, including the proposed new dairy in Madison County, is allowed to degrade the environment. The Darby watershed, as well as all watersheds, is important. Discharges of manure and nutrients into the waters of the state are not only unacceptable, but illegal. In addition to the ODA permit requirements, Orleton Farms will also have to meet the rigorous requirements of the Big Darby Creek stormwater construction NPDES permit currently administered by the Ohio EPA.

You mentioned there have been numerous studies that have shown property values are negatively affected by large farms. To my knowledge, there hasn't been a comprehensive university study undertaken on this subject in Ohio. However, a leading agricultural realtor in central Ohio, along with the county auditor, did keep records on property values sold near the Buckeye Egg Farm, which was one of the biggest environmental violators in the state. They found that most properties adjacent to the farm's northern facilities in Mt Victory, Marseilles and Goshen sold for more money than the value on the tax cards. It has been this realtor's experience that the large livestock operations are much cleaner than numerous small and medium sized operations, and when a large livestock farm starts up in an area, land prices actually increase in value.

Ohio is a state that is built on agriculture. From the state's thousands of farms that produce more than 200 diverse crops to the more than 1,000 agricultural processing plants, we are blessed to be a state with a strong, multi-billion dollar agricultural base. Food and agriculture is Ohio's top industry, contributing \$93 billion to the state's economy.

An important part of our agriculture industry is livestock and poultry production, which generates more than \$229 million in tax revenue each year and contributes more than \$8 million to Ohio's economy. Our livestock and poultry operations account for more than one-third of Ohio's farm production and one-sixth of the state's farm income, providing for more than 47,000 jobs on the farm or in processing.

There are 76,200 farms in Ohio and it is ODA's responsibility to hold farms of all sizes to high environmental standards to help assure a safe, abundant food supply that benefits communities and protects the environment throughout the state of Ohio. Ninety-three percent of the department's budget is dedicated to protecting producers, agribusinesses, and the consuming public by enforcing clearly written, scientific-based regulations as stipulated in Ohio's laws. In turn, Ohioans get soundly regulated businesses that add value to any neighborhood.

According to data released by the Ohio Livestock Coalition (OLC), the proposed new 5,428 head dairy farm in Madison County would be a \$35 million project that would

result in the direct employment of 35 persons, or \$1.3 million annual local wages. In addition, studies conducted by The Ohio State University show that every job created on a dairy farm creates an additional 2.2 jobs in the agricultural industry downstream, or 77 additional support jobs for the 5,428 head dairy.

OLC figures indicate that a 5,000-cow dairy farm will purchase approximately \$12.5 million of goods and services annually to support their operation. These include such items as feed, fuel, machinery, veterinarian, accounting, insurance and manure haulers, which are often purchased or contracted locally. According to studies conducted by the Wisconsin Milk Marketing Board and Pennsylvania's Center for Dairy Excellence, every cow generates \$13,000 of economic activity per year. Consequently, every dollar that a dairy farm or their employees spend locally would create a multiplier effect of more than 2½ times the original dollar.

I certainly understand the concerns regarding large livestock and poultry farms and, like you, want nothing more than to make certain that all permitted farms carefully follow and abide by Ohio's stringent standards.

Sincerely,

Adam Ward  
Legislative Liaison  
Ohio Department of Agriculture



**Steve Austria**  
Majority Whip

**Ohio Senate**  
Senate Building  
Columbus, Ohio 43215  
614-466-3780  
614-387-0788 Fax

**Committees:**

Finance and Financial Institutions  
Highways & Transportation, Chairman  
Insurance, Commerce and Labor  
Judiciary-Criminal Justice  
Rules  
Correctional Institutions Inspection Committee

**Select Committees:**

Aerospace and Defense Advisory Council  
Family Violence Prevention Center  
Advisory Council  
Minority Development Financing  
Advisory Board  
Legislative Service Commission  
Speed to Scale Task Force

August 4, 2008

Brian Welch  
2025 Palouse Drive  
London, OH 43140

Dear Mr. & Mrs. Welch:

Enclosed, please find the correspondence my office received from Adam Ward, Legislative Liaison for the Ohio Department of Agriculture (ODA). I hope you find this information useful.

Once again, thank you for contacting my office in regards to Orleton Farms. Should you have additional questions in regards to this issue, please contact my office, as my door is always open.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Austria".

Steve Austria  
Majority Whip  
Ohio Senate

SA/smk