

Congress of the United States

Washington, DC 20510

December 11, 2008

Matt Gluckman
EPA Region 5
NPDES Programs Branch
WN-16J
77 West Jackson Boulevard
Chicago, Illinois 60604

RE: FRL-8728-5

Dear Mr. Gluckman:

This letter is in response to the October 15, 2008 Federal Register notice regarding Ohio's application to transfer the National Pollutant Discharge Elimination System (NPDES) program for concentrated animal feeding operations (CAFO) from the Ohio Environmental Protection Agency (EPA) to the Ohio Department of Agriculture (ODA).

We support Ohio's efforts to transfer permitting authority. As you may know, this is a significant issue for all stakeholders involved, from our livestock and environmental interests to Ohio's state legislature and government agencies. Interested parties in the state have worked collectively for many years, in a transparent and bipartisan manner to prepare a thorough application that meets the federal government's requirements for transfer of permit authority from one state agency to another. As noted in the Federal Register announcement, U.S. EPA considers Ohio's application to be approvable, contingent upon enactment and adoption of statutory and rule changes. As we understand, Ohio is currently taking the necessary steps to accomplish these final requirements.

While the review process has taken longer than originally estimated, given that Ohio submitted the application to U.S. EPA in January 2007, we recognize the time and efforts put forth by the agency and thank U.S. EPA for working closely with ODA and the State of Ohio to reach this critical stage in the application process.

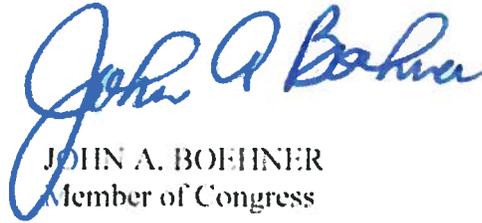
Following the conclusion of the public comment period, we would respectfully urge U.S. EPA to give the application an unexpurgated review that diligently addresses the concerns of all parties, and complete this process as soon as it is feasibly possible.

Thank you for your work on this effort.

Sincerely,



GEORGE V. VOINOVICH
United States Senator



JOHN A. BOEHNER
Member of Congress



JIM JORDAN
Member of Congress



ZACK SPACE
Member of Congress



PATRICK J. TIBERI
Member of Congress



BOB LATTA
Member of Congress



MICHAEL TURNER
Member of Congress

Cc: Governor Ted Strickland, Ohio
Robert Boggs, Ohio Department of Agriculture
Administrator Steve Johnson, U.S. Environmental Protection Agency Director



City of Columbus
Mayor Michael B. Coleman

Department of Public Utilities

Tatyana Arsh, P.E. Director

December, 12, 2008

Matt Gluckman
USEPA Region 5
Water Division (WN-16J)
77 W. Jackson Blvd.
Chicago, IL 60604

RE: Comments on Proposed CAFO Program Transfer from OEPA to ODA

Dear Mr. Gluckman:

Thank you for affording us the opportunity to comment on the proposed transfer of NPDES permitting authority from the Ohio Environmental Protection Agency (OEPA) to the Ohio Department of Agriculture (ODA). The City of Columbus (City) oversees a number of important watersheds that serve approximately 775,000 people in Columbus and approximately 2,000,000 in central Ohio.

The City has a number of concerns that should be addressed before approval of the transfer of permitting authority, especially given the recent September 2008 GAO Report on Concentrated Animal Feeding Operations which notes: "Although EPA is aware of the potential impacts of air and water pollutants from animal feeding operations, it lacks data on the number of animal feeding operations and the amount of discharges actually occurring." (Concentrated Animal Feeding Operations, GAO-08-944, September 2008, p. 23).

1. LAND APPLICATION RECORD-KEEPING

The first concern of the City is knowing where the land application of manure is occurring. Requiring CAFOs to retain records of land application onsite is not sufficiently protective. These records should be part of the government's public records that are available to the water supply authorities and the public upon request.

a. The City presently has an ongoing program to reduce the amount of phosphorous and nitrogen from farming operations through encouragement of best management practices and creation of buffer zones. Knowing where the land application of manure is occurring will assist the City in monitoring the oversight of these operations and in identifying any problematic nutrient sources in its source water protection areas.

b. OAC 901:10-1-06 (A)(4) requires that a livestock manure broker (buying, selling, or land

Utilities Complex	910 Dublin Road	Columbus, Ohio 43215
Director's Office	614/645-6141	FAX: 614/645-8019 TDD: 614/645-6454
Power and Water Division	614/645-7020	FAX: 614/645-8177 TDD: 614/645-7188

Fairwood Complex	1250 Fairwood Avenue	Columbus, Ohio 43206
Sewerage and Drainage Division	614/645-7175	FAX: 614/645-3801 TDD: 614/645-6338

applying annually more than 4500 dry tons of manure or more than 25,000,000 gallons of liquid manure) or a livestock manure applicator (land applying more than 4500 dry tons of manure or more than 25,000,000 gallons of liquid manure) shall maintain an operating record which, in part, requires that certain information be kept for each "land application area" as per OAC 901:10-1-06.

While at least for certain levels of application, the record-keeping requirements contain needed information, they are limited in that they only apply to "land application areas". This term is defined in OAC 901:10-1-01(UU) to mean "...land under the control of a concentrated animal feeding operation owner or operator, whether it is owned, rented, leased, or subject to access agreement with the landowner, or otherwise under the control of the owner or operator, to which manure, or process wastewater from the production area is or may be applied." In effect, land applications of manure through brokers who sell or distribute the material to others who then apply on lands not under the "control" of the CAFO are completely removed from the recordkeeping requirement. Simply by creating a middle man for its manure, CAFOs can avoid important record-keeping requirements.

CAFOs should be required to identify all areas on which its manure is land applied. Records to ensure compliance with such requirements as proper setbacks and proper methods and rates of application should be kept for all land-applied manure locations. Absent such information, land applicators and ODA will be hard pressed to ensure that phosphate applications, as an example, do not exceed the limits set forth in proposed OAC 901:10-2-14(E)(3).

To remedy this gap in the regulation, ODA could require site specific authorizations prior to land application, similar to the requirements that apply for land applying biosolids in Ohio pursuant to OAC 3745-40-03 (J). This approach would provide ODA the opportunity to ensure that nutrient loadings are not exceeded for a given tract and the local utilities and the public a means to track where land application is occurring.

2. ENFORCEMENT

The level of enforcement is an additional concern. In its submittal to USEPA, ODA indicates that it has 4 Livestock Environmental Permitting Program inspectors. This number appears low given the new direct responsibilities that ODA is taking on in overseeing the NPDES CAFO permitting program and the additional monitoring and reporting requirements that it will be enforcing. Also, with the upcoming responsibility of reviewing Ohio's version of the nutrient management plans, and overseeing CAFOs that have left the regulatory regime, additional staffing will be needed.

3. SETBACK DISTANCES

Minimum setback/minimum distance requirements for land application of solid or liquid manure offer critical protections to watersheds. These restrictions are contained in proposed OAC rule 901:10-2-14. Of concern to the City are the restrictions protecting the surface waters of the state.

Table 2 imposes land application restrictions of 35 feet vegetative cover or a total setback of 100 feet from surface waters of the state. Footnote two of the table states that while either a 35 foot buffer strip must be present or a total setback of 100 feet must be maintained for surface application or surface incorporation within 24 hours or direct injection, as a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100 foot setback or 35 foot vegetative cover.

Unlike footnote 9 pertaining to land application restrictions for field surface furrows which requires prior approval of the Director in instances where one seeks alternatives to minimum setback provisions, footnote 2 is silent on whether prior agency approval is needed. Minimum distance restriction alternatives should not be implemented without such approval in all instances. Footnote 2 should incorporate the prior approval language of footnote 9.

An additional concern about the proposed minimum distance requirements is that they lack any requirement that land application not occur within a ground water source water assessment and protection area or wellhead protection area that has been delineated as such by Ohio EPA. This is a requirement that applies to the land application of biosolids pursuant to OAC 3745-40-04 (O).

In addition, if no delineated or endorsed ground water source water assessment and protection area or wellhead protection area exists, the isolation distance from a community public water system well should be 1000 feet, akin to what is required for land application of biosolids set forth in OAC 3745-40-04 (O).

4. NUTRIENT MANAGEMENT PLANS

a. New federal regulations promulgated in November 2008 require that nutrient management plans (NMPs) be made part of the CAFO NPDES permit and that as such, are to be public noticed prior to finalization. Ohio's version of the NMP is the manure management plan (MMP) whose terms are outlined in OAC 901:10-2-08.

The definition of the NMP should be clearer relative to Ohio's program. In the comment to the definition of "manure management plan" – proposed OAC 901:10-1-01 (YY) states the following:

A person preparing a manure management plan is advised to refer to guidance on comprehensive nutrient management plans that have similar components for manure management plans. Comprehensive nutrient management plan standards are prepared and published by the Natural Resource Conservation Service, an agency of the United States department of agriculture. However, the scope of comprehensive nutrient management plans exceeds the requirements of Chapter 903. of the Revised Code and rules of the chapter.

Given the new federal regulations relative to NMP being part of the terms of the permit, there should not be any confusion as to what is obligated. There is confusion as to whether a manure management plan is different from a nutrient management plan which is different from a comprehensive nutrient management plan. If a NMP is required for parts of the regulated community it should be clear that the scope of a MMP should be identical to a NMP.

b. While Ohio's program submittal to USEPA occurred prior to the above rule changes, Ohio's program should reflect these changes while it is still in the process of finalizing its program. The federal revisions offer important additional safeguards to the state program that should be incorporated simultaneous to, if not prior to, the approval of the permitting authority transfer.

Please contact me at 614-645-3753 should you have any questions regarding the above comments.

Sincerely,



Dominic J. Hanket

Assistant Director, Regulatory Compliance

cc. Tatyana Arsh, Director, P.E.
Dax Blake, Administrator, Division of Sewerage and Drainage.
Richard C. Westerfield, Administrator, Division of Power and Water



December 16, 2008

Matthew Gluckman
NPDES Programs Branch (WN-16J)
US EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590 VIA FACSIMILE: 312-886-0168

Dear Mr. Gluckman:

Please accept the follow comments regarding the proposal to transfer control of Ohio's National Pollutant Discharge Elimination System (NPDES) program for Concentrated Animal Feeding Operations (CAFOs) from the Ohio Environmental Protection Agency (EPA) to the Ohio Department of Agriculture (ODA). On behalf of our 200,000 members and supporters, including nearly 6,000 in Ohio, Farm Sanctuary strongly opposes this transfer based on the inherent conflict of interest it would generate.

Because the ODA's primary role is to promote the interests of agribusiness, granting the Department regulatory powers over the same farm development it actively seeks to promote would be counterproductive. It would in essence create a situation of the proverbial fox guarding the henhouse, thereby undermining existing environmental regulations concerning these facilities and potentially expanding the already considerable environmental problems of Ohio CAFOs.

Such a power shift would be disastrous for Ohio. It is our contention that Ohio must develop stricter – not more lenient – regulations and enforcement for CAFO discharge for a number of reasons:

- Animal waste from CAFOs contain antibiotic residues, heavy metals, nitrites, and other pollutants, as well as viruses, parasites and bacteria (including E. coli, which can live in the soil for six to ten months and becomes waterborne after a rainfall or snow melting).
- According to the EPA, CAFO waste has polluted more than 35,000 miles of rivers in 22 states and polluted groundwater in 17 states,¹ and scientists have become increasingly concerned about the return of a massive “dead zone” in Lake Erie, where CAFO pollution has depleted oxygen levels so severely that no fish can survive. This in turn threatens the lake's tourism value for surrounding communities.²

¹ <http://www.grist.org/news/muck/2006/06/30/cafo-waste/>

² <http://www.dnr.state.oh.us/Home/FishingSubhomePage/fisheriesmanagementplaceholder/fishingfairportdeadzone/t/abid/6159/Default.aspx>

- History has shown that even when CAFOs are sanctioned for discharge violations, corrective actions can take years to implement. For example, it took four years after the State of Ohio's 27-count lawsuit was filed against Buckeye Egg Farm for environmental violations for the CAFO to be ordered shut down.³
- According to a 2007 U.N. Food and Agriculture Organization report, the livestock industry is one of the most significant contributors to land degradation, air pollution, water shortage and water pollution, loss of biodiversity, and climate change, greenhouse gas emissions and the resultant global warming.
- CAFOs tend to create dangerous, low-paying jobs, a disproportionate percentage of which historically go to illegal immigrants who lack labor law protections.
- The rise of CAFOs, along with the decline of small independent farms, often signals the degradation of rural communities. While CAFOs may be family owned, they rarely if ever fit the public's concept of a "family farm."
- Neighbors of industrial operations experience health problems ranging from chronic asthma to neurological damage. Combined with the omnipresent odors from CAFOs, these health ailments precipitate a diminished quality of life and property values for local residents.

As one of the Great Lake states – and one of the nation's largest egg-producing states – Ohio should seek to restrict the harmful effects of CAFO pollution. Manure, chemicals, gases and other waste products from animal agriculture endanger the health and well-being of humans, wildlife, and the larger communities in which they operate.

For these reasons, we strongly oppose the transference of regulatory control of Ohio's NPDES program for CAFOs from the Ohio EPA to the Ohio Department of Agriculture. Implementing such a change would be disastrous in both the short term and long term.

Thank you for taking the time to review the comments of Farm Sanctuary with regard to the NPDES program for CAFOs.

Sincerely,



Gene Baur, President and Co-founder
Farm Sanctuary

³ <http://www.allbusiness.com/north-america/united-states-ohio-metro-areas-toledo/995183-1.html>



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December 16, 2008

VIA CERTIFIED MAIL

Matthew Gluckman
NPDES Programs Branch (WN-16J)
US EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

RE: The proposed transfer of Ohio's NPDES program from Ohio EPA to Ohio Department of Agriculture.

Dear Mr. Gluckman:

The undersigned organizations and individuals appreciate this opportunity to comment on the proposed transfer of Ohio's Concentrated Animal Feeding Operation (CAFO) National Pollutant Discharge Elimination System (NPDES) program from Ohio EPA (OEPA) to the Ohio Department of Agriculture (ODA).

The October 15, 2008 Federal Register notice for transfer of NPDES permitting to the ODA presents a multitude of environmental risks; significantly, the risk that ODA will not issue NPDES permits to CAFOs as required by the Clean Water Act (CWA), that if ODA does issue permits, it will do so in a faulty manner by failing to follow the requirements of the (CWA), and that ODA's enforcement of the permits issued will be inadequate.¹ Effective enforcement and permitting under the CWA depends heavily upon the nature of the agency that is given authority to implement the law.

In October 2006, the Environmental Integrity Project (EIP) released a report entitled, "*Giving Away the Farm: Why US EPA Should Reject the Ohio Department of Agriculture's Bid to Administer the Clean Water Act*," (<http://www.environmentalintegrity.org/pub397.cfm>). The

¹ State Program Requirements; Application To Administer the National Pollutant Discharge Elimination System (NPDES) Program for Concentrated Animal Feeding Operations (CAFOs); Ohio, 73 Fed. Reg. 61123 (proposed October 15, 2008).

report, which is attached to this letter, explains why the transfer of NPDES permitting to ODA would be detrimental to the enforcement of the CWA and to the protection of the environment surrounding animal feeding operations. The proposed Ohio program transfer does not adequately address the concerns raised in EIP's report. The report's findings and recommendations are summarized below.

I. There is a conflict of interest between the mission statement of ODA and the goal of the CWA in protecting the environment from water pollution.

The explicit mission of the ODA "is to provide regulatory protection to producers, agribusinesses, and the consuming public; to promote Ohio agricultural products in domestic and international markets; and to educate the citizens of Ohio about our agricultural industry." (Giving Away the Farm, p. 19, endnote, 131).

The general mission of the OEPA is to "protect the environment and public health by ensuring compliance with environmental laws and demonstrating leadership in environmental stewardship." (Giving Away the Farm, p. 19, endnote 132). The more specific mission for the division currently in charge of issuing NPDES permits (OEPA's Division of Surface Water) is to "protect, enhance and restore all waters of the state for the health, safety and welfare of present and future generations." (Giving Away the Farm, p. 19, endnote 133).

The contrast between these two missions is apparent: ODA is charged with promoting Ohio's agricultural industry, while OEPA must protect state waters from pollution. These missions may overlap, but they are not identical. Where ODA perceives that implementing the CWA conflicts with the needs of the agricultural community that it serves, it may feel bound by its statutory mission to protect the interests of its clientele.

EPA should not approve the transfer of such an important task - protecting Ohio's state water for the benefit of Ohio citizens - without resolving this conflict of interest.

II. ODA lacks "follow-through" on the enforcement of environmental programs it has in place.

EIP's report identifies numerous examples of ODA's failure to enforce environmental programs. One example is the Certified Livestock Manager (CLM) program. Under the CLM program, any person responsible for handling manure at a major CAFO or anyone who transports or applies at least 4.5 tons (dry) or 25 million gallons (liquid) of manure annually must be a CLM or "under supervision" of a CLM who is "reasonably available, but not necessarily physically present." (Giving Away the Farm, p. 19, endnote 138).

The CLM program was meant to ensure expert manure handling. However, EIP's 2006 review found that ODA had not implemented the program successfully:

- 1) ODA issued only two (2) warning letters to manure applicators in violation of the CLM. Neither applicator was required to pay a penalty or to obtain a CLM certificate. (Giving Away the Farm, p. 20, endnote 140).

- 2) ODA promised to issue a warning letter against a CLM-certified manure applicator for violation of setback requirements near a private well in May 2006, but ODA never issued the letter. (Giving Away the Farm, p. 20, endnote 141).
- 3) ODA's background check requirement for new CLM applicants has not been enforced effectively. This is evidenced by the discovery, two (2) years late, of Buckeye Egg Farm's operation under a habitual violator from the state of Iowa. (Giving Away the Farm, p. 20, endnote 143).

EIP's report also provides a half-dozen case studies (Buckeye Egg Farm and five (5) others) where lax enforcement in Ohio has allowed dirty CAFOs to evade compliance. (Giving Away the Farm, pp. 15-17). These examples indicate that ODA lacks the resources and motivation to adequately enforce the CWA.

III. ODA's numerous program deficiencies are proof that transfer of the NPDES program is unwarranted.

EIP's 2006 review found that ODA's program was full of deficiencies that make transfer of the NPDES program to ODA inappropriate:

- 1) ODA does not deter noncompliance through effective enforcement.
 - a. EIP's report provided many detailed examples of ODA's weak or non-existent penalties for violations of ODA rules, e.g.: ODA issued three (3) penalties in four (4) years. OEPA issued double the number of penalties in amounts more than seven (7) times that of ODA's average penalty. (Giving Away the Farm, p. 20, endnote 144).
- 2) ODA fails to effectively regulate manure transfer from permitted farms.
 - a. EIP's report highlighted ODA's failure to allow adequate public review of manure transfer. (Giving Away the Farm, p. 20).
- 3) ODA places inadequate restrictions on winter manure applications.
 - a. EIP's report highlighted the absence of ODA's restrictions on wintertime transfer of manure and ODA's willingness to ignore Ohio Department of Natural Resources' (ODNR's) newsletter statement that, "Protecting water quality would be a lot easier if farmers never needed to apply manure when fields are frozen or covered with snow." (Giving Away the Farm, p. 23, endnote 167).
- 4) ODA has significantly reduced permit coverage and reporting requirements.
 - a. EIP's report revealed the significant disparity in the number of reported state permits under OEPA and ODA's records, suggesting that many permitted facilities may fall off of ODA's radar. This will result in fewer permitted CAFOs. EIP's report also revealed ODA's lax recordkeeping and enforcement of its reporting requirement. (Giving Away the Farm, p. 23).

US EPA must be aware of these four (4) deficiencies in ODA's program, and determine whether they have been corrected before approving the transfer of Ohio's CAFO NPDES program to ODA.

IV. ODA is not ready to effectively oversee NPDES permitting because it does not have the required infrastructure in place.

In the history of events leading up to the October 15th Federal Register notice, the EPA and ODA exchanged a series of letters, which detailed EPA's required statutory and rule changes in Ohio law.² Two letters, dated April 4, 2007 and November 8, 2007, required changes in five (5) provisions of ODA's water standards for land application of manure, litter, and process wastewater.³ In addition, the letters required ODA to clarify or revise twenty six (26) provisions of legal authority/NPDES permitting requirements.⁴

On September 4, 2008, ODA responded to EPA's letters by "commit[ting] to pursue specified statutory and rule changes to address the issues identified by EPA."⁵

The undersigned take issue with the fact that EPA released its public notice in the Federal Register prior to ODA's enactment and adoption of the statutory and rule changes. These changes will provide the basic infrastructure that ODA will use to run the NPDES program. The Federal Register notice states that the transfer "is contingent on Ohio's enactment and adoption of the changes to Ohio law and administrative rules needed to resolve EPA's issues."⁶

Until the proposed statutory changes are enacted and adopted, there is no assurance to the public that the changes will be finalized as promised by ODA. In addition, there is no assurance as to what the final changes will look like. ODA's proposed language may be altered in the process of finalizing the statutory and rule changes such that the language does not meet EPA's standards for approval. Therefore, the public notice was premature. Unless the changes are enacted and adopted, the NPDES program is not ripe for transfer.

The undersigned therefore request that EPA grant an extension of the comment period for review of ODA's proposed statutory and rule changes as required by EPA. The proposed rules, included in ODA's September 4th letter, are extensive. The public has the right to assess whether ODA's revisions meet the standards set by EPA and to track any alterations in language that may arise. Thus, the public should have additional time to comment on the rules prior to the final adoption by ODA.

² <http://www.epa.gov/R5water/npdestek/odacafo.htm>.

³ *Id.* at 61124.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

V. ODA does not have the practice, experience, and familiarity with the CWA to sufficiently enforce the requirements of 33 U.S.C. § 1342(b).

The CWA is a highly technical statute. Without an appropriate program structure, ODA will be unable to comply with 33 U.S.C. § 1342(b)(1)(A), (b)(2)(B), and (b)(2)(7), which list requirements for state permit programs.

- Subsection (b)(1)(A) requires all permits to “insure compliance” with §1311, §1312, §1316, §1317, and §1343 of the CWA. Thus, permits issued by ODA must be in compliance with effluent limitations, water quality related effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and ocean discharge criteria, respectively.
- Subsection (b)(2)(B) covers recordkeeping and reporting. The subsection requires ODA to “inspect, monitor, enter, and require reports” that comply with §1318 of the CWA.
- Subsection (b)(2)(7) requires ODA to “abate violations of the permit or the permit program, including civil and criminal penalties.”

As an agency, ODA does not have the appropriate mission statement directives or experience to issue permits that ensure compliance with the CWA. Given ODA’s ineffective enforcement and oversight, referred to in sections II and III of these comments, ODA is not ready to implement extensive reporting requirements for NPDES permits or to abate violations of the permits by filing civil or criminal penalties.

V.1. ODA must meet additional requirements before transfer take place.

ODA must also meet the requirements of a related CWA section, §33 U.S.C. §1314(i). This section governs guidelines for monitoring, reporting, enforcement, funding, personnel, and manpower of state programs under §1342. Specifically, ODA must follow the requirements of §1314(i)(d), ensuring that it has adequate funding, personnel, and manpower to implement the NPDES program and that the permit approval board is financially independent and unbiased⁷.

There is no indication from the October 15th Federal Register notice that ODA has considered the funding, personnel, and manpower requirements of administering this state program. EPA should not approve transfer of the program if ODA is not prepared to comply with both §1342 and §1314(i)(d).

⁷ §1314(i)(d) requires that “no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit.”

VI. EPA should address the findings and recommendations in EIP's 2006 report and the concerns recited above before approving transfer of the NPDES program.

EPA should examine EIP's attached report. The October 15th Federal Register notice does not indicate whether EPA has reviewed the deficiencies identified in our report, and, if so, whether ODA has done anything to improve implementation of the Ohio program for CAFOs.⁸

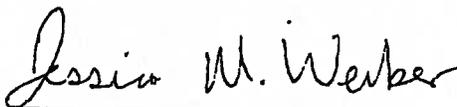
The findings in EIP's report and in the comments above show that EPA should disapprove the NPDES program transfer to ODA because such a transfer would be premature and improper.

ODA is not the correct agency to administer the program because:

- ODA's mission is incompatible with the goals of the CWA;
- ODA lacks the "follow-through" necessary to enforce environmental programs;
- ODA's program deficiencies make transfer unwarranted;
- ODA lacks the infrastructure it needs to run the NPDES program; and
- ODA does not have the adequate experience and expertise needed to run the CWA program in accordance with the law.

Again, the undersigned appreciate this opportunity to comment on the transfer of the Ohio NPDES program to the ODA and request that EPA grant an extension of the comment period for review of ODA's proposed statutory and rule changes.

Sincerely,



Jessica M. Werber

Attorney

Environmental Integrity Project

1920 L Street NW, Ste. 800

Washington DC, 20036

⁸ See citation 1.



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December 16, 2008

Matthew Gluckman
NPDES Programs Branch (WN-16J)
US EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

VIA FACSIMILE: 312-886-0168

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- According to the EPA, CAFO waste has polluted more than 35,000 miles of rivers in 22 states and polluted groundwater in 17 states,¹ and scientists have become increasingly concerned about the return of a massive "dead zone" in Lake Erie, where CAFO pollution has depleted oxygen levels so severely that no fish can survive. This in turn threatens the lake's tourism value for surrounding communities.²

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² <http://www.dnr.state.oh.us/Home/FishingSubhomePage/fisheriesmanagementplaceholder/fishingfairportdeadzone/tabid/6159/Default.aspx>

- History has shown that even when CAFOs are sanctioned for discharge violations, corrective actions can take years to implement. For example, it took four years after the State of Ohio's 27-count lawsuit was filed against Buckeye Egg Farm for environmental violations for the CAFO to be ordered shut down.³
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As one of the Great Lake states – and one of the nation's largest egg-producing states – Ohio should seek to restrict the harmful effects of CAFO pollution. Manure, chemicals, gases and other waste products from animal agriculture endanger the health and well-being of humans, wildlife, and the larger communities in which they operate.

For these reasons, we strongly oppose the transference of regulatory control of Ohio's NPDES program for CAFOs from the Ohio EPA to the Ohio Department of Agriculture. Implementing such a change would be disastrous in both the short term and long term.

Thank you for taking the time to review the comments of Farm Sanctuary with regard to the NPDES program for CAFOs.

Sincerely,



Gene Baur, President and Co-founder
Farm Sanctuary

³ <http://www.allbusiness.com/north-america/united-states-ohio-metro-areas-toledo/995183-1.html>

**Sandusky County- Citizens Protecting our Resources,
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77 West Jackson Blvd
Chicago, IL 60604-3590

RE: Transfer of NPDES Permitting Authority to ODA

To Whom It May Concern:

With the change in Ohio laws in 2000 the mighty agribusiness lobby persuaded the then governor and the Ohio general assembly to change the control of large-scale animal farms or CAFO's from the OHIO EPA to the Ohio Department of Agriculture. (DOA- dead on arrival) This also permits the ODA seek approval to control the federal NPDES permits.

Many of the Livestock Environmental Permitting Programs that were scientifically based regulations have either been often revised and changed and now include that the Director of the ODA can, and has overturned many of these rules and regulations at his, the DIRECTORS DESCRETION. At the permit for the Dairy in Woodville, the OEPA recommended that this dairy not be allowed since it was less than 2 miles of the Town of Woodville and its water supply on karts ground. Additionally it was in close proximity to the Portage River and there was not the coded distance from the bottom of the manure pit to the aquifer. Seems every year the ODA reduces this requirement and the land area requirements for manure disposal. Additionally, the OEPA advised the ODA that they were going to expand the WSPA around Woodville and the proposed Dairy would be within the new WSPA. No matter, the Director, Mr. Boggs overruled the stated requirements and EPA recommendations with a stroke of a pen; at his sole discretion and in spite of the Ohio EPA recommendation and approved the permit. In talks with the OEPA, they said that no matter what objection they observe and give to the ODA, the ODA does what it wants to! That is a sad situation.

The ODA is reducing their current regulations that protect our aquifers, floodplains and WSPA. They are hell bent on approving any permits for CAFO's and they have never found a CAFO's that they did not like. Kevin Elder even said they can engineer around any problem(s) to get a CAFO's approved and with the help of the Directors

VIA FAX TO THE US EPA.

December 15, 2008

DISCRETIONARY Privilege, they sure have not. Check their record. Data is also manipulated to give the appearance of meeting the criteria. Often documentation supplied with the permits is accepted without question or Proof.

When the ODA constantly changes, rescinds the current regulations to meet the situation at hand so it can approve a CAFO's, why would the Federal, US EPA grant them any additional authority. The joke is what would happen if they lost their rubber approval stamp. They don't have a rejected stamp.

One has to wonder why the ODA doesn't deny permits if they don't comply with their regulations instead of changing their regulations to comply with the regulations. One has to wonder why the ODA continues to rescind their current regulations. Are they a captive of the lobbying groups that donate significant funding and see themselves as the agency to protect and promote the corporate agriculture industry to the detriment of the OHIO citizens and our water quality? Mega farms are not farms; they are just like any large corporate entity and should be managed under the same rules for pollution

In my humble opinion, they need to clean their house and go back to their original charter and enforce the original rules and regulation. Seems like they are sleeping with the folks they are suppose to be regulating.

They should not to be allowed to enforce the any additional rules and regulations for mega farms/factory farms that the EPA now controls. This transition of power is like having the foxes watch the chickens. Where would be our Checks and Balances control? A one stop and shop is not what is needed.

The ODA cannot be trusted and should be redirected back to its original purpose only and made to put their house back in order. The Director should not have discretionary power, to approve anything. Why overrule the Rules?

We request that you deny this change in control.

Sincerely,



Carl Schuh, Trustee

SC-CPR

Carl & Diane Schuh

2630 County Road 24, Gibsonburg, OH 43431-9538 419-849-3491

December 15, 2008

VIA FAX to 312-886-0168

**Matthew Gluckman
US EPA Region 5
77 West Jackson Blvd
Chicago, IL 60604-3590**

RE: Transfer of NPDES Permitting Authority to ODA

Dear Mr. Gluckman:

The Ohio Department of Agriculture is an organization that is currently a defacto agency of the farm bureau and does their bidding. Their regulations to permit CAFOs are constantly in a state of flux. Yesterday's rules, regulations and specs are changed to suite the current situation. If the manure is too much to spread on 200 acres they change the rules or make an exception. If the separation between the bottom of the manure pit and the aquifer is not sufficient they "reengineer" it to and change the specifications. They accept data from CAFO without question or proof.

When the Ohio EPA says they do not recommend issuing a permit because it is on karst soil, in a WSPA, the CAFO is in a flood plains or there are too numerous to count old abandoned oil well on the site or where the manure will be spread, or sink holes they just ignore the OEPA and proceed to issue the permits. And if all else fails, the director or the ODA, can at his discretion, override everything and issue the permit. They know manure ponds leak, maybe not initially, but sooner or later, to the detriment of the community water supply. Your agency is charged with protecting our clean water; do you think this will advance your objectives?

Nothing is ever said about the air quality in the facility or the neighborhood because they say there are no rules for air quality since these CAFOs are farms and are exempt. When something cost \$20 million plus they are not farms, but factories and should be required to do, as any other polluting facility has to do before they harm the population. Sewerage facilities have stringent requirements, so should CAFO manure factories.

Giving any additional control of environmental regulation to the ODA is a mistake. They cannot even manage what they are doing now unless you want another agency that just rubber stamps things so that the State of Ohio can be covered in Manure and our water supply and lakes all polluted. The ODA chicken coop is unprotected now, and giving them more control is like an invitation to let the fox in to make sure things are ok.

We want clean water and clean air, and this change is not acceptable to the people of Ohio and should not be acceptable to the US EPA.

Please reject this change.

Sincerely,


Carl Schuh


Diane Schuh



City of Columbus
 Mayor Michael B. Coleman

Department of Public Utilities
 Tatyana Arsh, P.E. Director

December, 12, 2008

Matt Gluckman
 USEPA Region 5
 Water Division (WN-16J)
 77 W. Jackson Blvd.
 Chicago, IL 60604

RE: Comments on Proposed CAFO Program Transfer from OEPA to ODA

Dear Mr. Gluckman:

Thank you for affording us the opportunity to comment on the proposed transfer of NPDES permitting authority from the Ohio Environmental Protection Agency (OEPA) to the Ohio Department of Agriculture (ODA). The City of Columbus (City) oversees a number of important watersheds that serve approximately 775,000 people in Columbus and approximately 2,000,000 in central Ohio.

The City has a number of concerns that should be addressed before approval of the transfer of permitting authority, especially given the recent September 2008 GAO Report on Concentrated Animal Feeding Operations which notes: "Although EPA is aware of the potential impacts of air and water pollutants from animal feeding operations, it lacks data on the number of animal feeding operations and the amount of discharges actually occurring." (Concentrated Animal Feeding Operations, GAO-08-944, September 2008, p. 23).

1. LAND APPLICATION RECORD-KEEPING

The first concern of the City is knowing where the land application of manure is occurring. Requiring CAFOs to retain records of land application onsite is not sufficiently protective. These records should be part of the government's public records that are available to the water supply authorities and the public upon request.

- a. The City presently has an ongoing program to reduce the amount of phosphorous and nitrogen from farming operations through encouragement of best management practices and creation of buffer zones. Knowing where the land application of manure is occurring will assist the City in monitoring the oversight of these operations and in identifying any problematic nutrient sources in its source water protection areas.
- b. OAC 901:10-1-06 (A)(4) requires that a livestock manure broker (buying, selling, or land

<u>Utilities Complex</u>	<u>910 Dublin Road</u>	<u>Columbus, Ohio 43215</u>
Director's Office	614/645-6141	FAX: 614/645-8019 TDD: 614/645-6454
Power and Water Division	614/645-7020	FAX: 614/645-8177 TDD: 614/645-7188

<u>Fairwood Complex</u>	<u>1250 Fairwood Avenue</u>	<u>Columbus, Ohio 43206</u>
Sewerage and Drainage Division	614/645-7175	FAX: 614/645-3801 TDD: 614/645-6338

applying annually more than 4500 dry tons of manure or more than 25,000,000 gallons of liquid manure) or a livestock manure applicator (land applying more than 4500 dry tons of manure or more than 25,000,000 gallons of liquid manure) shall maintain an operating record which, in part, requires that certain information be kept for each "land application area" as per OAC 901:10-1-06.

While at least for certain levels of application, the record-keeping requirements contain needed information, they are limited in that they only apply to "land application areas". This term is defined in OAC 901:10-1-01(UU) to mean "...land under the control of a concentrated animal feeding operation owner or operator, whether it is owned, rented, leased, or subject to access agreement with the landowner, or otherwise under the control of the owner or operator, to which manure, or process wastewater from the production area is or may be applied." In effect, land applications of manure through brokers who sell or distribute the material to others who then apply on lands not under the "control" of the CAFO are completely removed from the recordkeeping requirement. Simply by creating a middle man for its manure, CAFOs can avoid important record-keeping requirements.

CAFOs should be required to identify all areas on which its manure is land applied. Records to ensure compliance with such requirements as proper setbacks and proper methods and rates of application should be kept for all land-applied manure locations. Absent such information, land applicators and ODA will be hard pressed to ensure that phosphate applications, as an example, do not exceed the limits set forth in proposed OAC 901:10-2-14(E)(3).

To remedy this gap in the regulation, ODA could require site specific authorizations prior to land application, similar to the requirements that apply for land applying biosolids in Ohio pursuant to OAC 3745-40-03 (J). This approach would provide ODA the opportunity to ensure that nutrient loadings are not exceeded for a given tract and the local utilities and the public a means to track where land application is occurring.

2. ENFORCEMENT

The level of enforcement is an additional concern. In its submittal to USEPA, ODA indicates that it has 4 Livestock Environmental Permitting Program inspectors. This number appears low given the new direct responsibilities that ODA is taking on in overseeing the NPDES CAFO permitting program and the additional monitoring and reporting requirements that it will be enforcing. Also, with the upcoming responsibility of reviewing Ohio's version of the nutrient management plans, and overseeing CAFOs that have left the regulatory regime, additional staffing will be needed.

3. SETBACK DISTANCES

Minimum setback/minimum distance requirements for land application of solid or liquid manure offer critical protections to watersheds. These restrictions are contained in proposed OAC rule 901:10-2-14. Of concern to the City are the restrictions protecting the surface waters of the state.

Table 2 imposes land application restrictions of 35 feet vegetative cover or a total setback of 100 feet from surface waters of the state. Footnote two of the table states that while either a 35 foot buffer strip must be present or a total setback of 100 feet must be maintained for surface application or surface incorporation within 24 hours or direct injection, as a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100 foot setback or 35 foot vegetative cover.

Unlike footnote 9 pertaining to land application restrictions for field surface furrows which requires prior approval of the Director in instances where one seeks alternatives to minimum setback provisions, footnote 2 is silent on whether prior agency approval is needed. Minimum distance restriction alternatives should not be implemented without such approval in all instances. Footnote 2 should incorporate the prior approval language of footnote 9.

An additional concern about the proposed minimum distance requirements is that they lack any requirement that land application not occur within a ground water source water assessment and protection area or wellhead protection area that has been delineated as such by Ohio EPA. This is a requirement that applies to the land application of biosolids pursuant to OAC 3745-40-04 (O).

In addition, if no delineated or endorsed ground water source water assessment and protection area or wellhead protection area exists, the isolation distance from a community public water system well should be 1000 feet, akin to what is required for land application of biosolids set forth in OAC 3745-40-04 (O).

4. NUTRIENT MANAGEMENT PLANS

a. New federal regulations promulgated in November 2008 require that nutrient management plans (NMPs) be made part of the CAFO NPDES permit and that as such, are to be public noticed prior to finalization. Ohio's version of the NMP is the manure management plan (MMP) whose terms are outlined in OAC 901:10-2-08.

The definition of the NMP should be clearer relative to Ohio's program. In the comment to the definition of "manure management plan" – proposed OAC 901:10-1-01 (YY) states the following:

A person preparing a manure management plan is advised to refer to guidance on comprehensive nutrient management plans that have similar components for manure management plans. Comprehensive nutrient management plan standards are prepared and published by the Natural Resource Conservation Service, an agency of the United States department of agriculture. However, the scope of comprehensive nutrient management plans exceeds the requirements of Chapter 903. of the Revised Code and rules of the chapter.

Given the new federal regulations relative to NMP being part of the terms of the permit, there should not be any confusion as to what is obligated. There is confusion as to whether a manure management plan is different from a nutrient management plan which is different from a comprehensive nutrient management plan. If a NMP is required for parts of the regulated community it should be clear that that the scope of a MMP should be identical to a NMP.

b. While Ohio's program submittal to USEPA occurred prior to the above rule changes, Ohio's program should reflect these changes while it is still in the process of finalizing its program. The federal revisions offer important additional safeguards to the state program that should be incorporated simultaneous to, if not prior to, the approval of the permitting authority transfer.

Please contact me at 614-645-3753 should you have any questions regarding the above comments.

Sincerely,

Dominic J. Hanket

Dominic J. Hanket

Assistant Director, Regulatory Compliance

cc. Tatyana Arsh, Director, P.E.
Dax Blake, Administrator, Division of Sewerage and Drainage.
Richard C. Westerfield, Administrator, Division of Power and Water



Forging a partnership between farmers and consumers
• Working together for Ohio's farmers •

December 15, 2008

Mr. Matthew Gluckman
US EPA Region 5
NPDES Programs Branch
WN-16J
77 West Jackson Blvd.
Chicago, Illinois 60604

Dear Mr. Gluckman,

RE: [FRL-8728-5] State Program Requirements; Application To Administer the National Pollutant Discharge Elimination System (NPDES) Program for Concentrated Animal Feeding Operations (CAFOs); Ohio

The Ohio Farm Bureau Federation (OFBF) is the largest general farm organization in the state of Ohio with more than 234,000 members and with members in all of Ohio's 88 counties. Our members produce virtually every kind of agricultural commodity and as a result, OFBF is strongly interested in environmental policies and their potential impact to sustaining a viable agbioresource industry here in Ohio.

The State of Ohio has submitted a request for the United States Environmental Protection Agency (EPA) to approve a revision to the Ohio National Pollutant Discharge Elimination System (NPDES) program to allow the Ohio Department of Agriculture (ODA) to administer the parts of the program pertaining to concentrated animal feeding operations (CAFOs) and storm water associated with construction activity at animal feeding operations (AFOs) in Ohio. The Ohio Environmental Protection Agency (Ohio EPA) currently administers the Ohio NPDES program in its entirety. Under the proposed revision, Ohio EPA would continue to implement all other aspects of the State's approved NPDES program.

We appreciate US EPA completing its review of Ohio's application to revise the State's NPDES program, requesting public comment about the proposal, and allowing us to provide comments to the Agency. For a variety of reasons we support transferring authority for specific portions of Ohio's NPDES program as detailed in the proposal from the Ohio EPA to the Ohio Department of Agriculture.

The Ohio Department of Agriculture submitted its NPDES delegation authority application to US EPA Region 5 in January 2007. Even though Region 5 promised that it would complete its review within six months, it actually took longer than this for Region 5 to complete the review process. Therefore, as far as we're concerned, it's time to get the job done and approve the Ohio Department of Agriculture's application seeking NPDES delegation authority as it pertains to CAFOs and construction activities at AFOs here in the Buckeye State.

Efforts to initiate this change first began with the issuance of the Livestock Task Force Report's recommendations more than ten years ago. Nearly eight years ago, Senate Bill 141, which authorized that

Ohio's state permitting program for large livestock farms be transferred from the Ohio EPA to the Ohio Department of Agriculture, was signed into law. This piece of legislation also called for Ohio's NPDES permitting program pertaining to CAFOs and construction activity at animal feeding operations to be transferred. Because of the Ohio Department of Agriculture's pervasive knowledge of agriculture, members of Ohio's General Assembly and the Administration felt it made sense to shift responsibility for environmental oversight of CAFOs and AFOs to the Department of Agriculture from Ohio EPA, an agency that had shown, despite its best efforts, that it was simply not suited to the task. Protecting the environment has much more to do with the proper management and recycling of manure, about which the Department of Agriculture knows a great deal.

Just like Ohio EPA, the Ohio Department of Agriculture is a regulatory agency. Unlike other state departments of agriculture, its primary function is not to promote agriculture, but to regulate it. Only seven percent of the Department's budget is allocated towards promoting agriculture, while 93 percent of its budget goes towards enforcing regulations. The Department of Agriculture is dedicated to protecting producers, agribusinesses and the consuming public by enforcing clearly written, scientific-based regulations as stipulated in Ohio's laws. These regulations apply to dairy production and processing, amusement rides, pesticides, animal health auctioneers, feeds, fertilizers, food safety, grain warehouses, meat and poultry slaughtering and processing, weights and measures, and more. By doing so, Ohioans get soundly regulated businesses that add value to neighborhoods and communities, and both farmers and consumers are protected.

The Ohio Department of Agriculture began administering the state permitting program through its Livestock Environmental Permitting Program (LEPP) more than six years ago. The state permitting program exceeds federal standards in many areas and has become a model for the nation. It has been deemed by Ohio's Environmental Review Appeals Commission (ERAC) to be a comprehensive, proactive and effective approach to ensuring that livestock farms large enough to require permits attain and comply with stringent standards. The Department of Agriculture's focus in its LEPP has been on compliance and inspection. Its emphasis on stringent monitoring and enforcement is protective of the environment.

During the past six years, Ohio's General Assembly has twice passed legislation (signed into law) to update Ohio's statutes to enable NPDES delegation authority being transferred from Ohio EPA to the Department of Agriculture. House Bill 152 contained several changes that were needed to be made to Ohio law to further enable the Department of Agriculture to obtain NPDES delegation authority per new rules US EPA announced in December 2002 that became effective in February 2003. House Bill 696 clarified several important issues identified by US EPA Region 5 and included amendments necessitated in the federal program since the passage of Senate Bill 141 and House Bill 152. Most recently, House Bill 635 and Senate Bill 383 were introduced in the 127th Session of the Ohio General Assembly to address statutory issues identified by US EPA Region 5 that needed to be changed to facilitate the transfer of the specific NPDES program aspects from Ohio EPA to the Department of Agriculture.

Additionally, the Department has amended its rules numerous times to reflect changes made in state statutes, in federal rules, and to address issues identified by US EPA Region 5 that needed to be clarified to be consistent with the Code of Federal Regulations. Most recently, the Department of Agriculture held a public hearing on November 10, 2008, to receive public comment related to rules that US EPA Region 5 had requested to help facilitate the transfer of specific portions of the NPDES program from Ohio EPA to

the Department of Agriculture. Consequently, these same rules were scheduled for a review by the Joint Committee on Agency Rule Review (JCARR) on December 8, 2008. In conducting its review, JCARR may only recommend to invalidate a rule if the rule exceeds the scope of the agency's statutory authority to make rules; the rule conflicts with the intent of the legislature in enacting the statute under which the rule is proposed; the rules conflict with another rule of that agency or a different rule-making agency; and the agency has not proposed a complete and accurate rule summary and fiscal analysis of the proposed rule, and if the agency has incorporated a text or other material by reference, the agency has not met the standards stated in the Ohio Revised Code. We are not aware of any reason for which JCARR would consider invalidating the rules the Department of Agriculture has submitted to it pertaining to the NPDES transfer process.

Under the rules as finalized, we are pleased that the Department of Agriculture, working with US EPA Region 5 has determined that stockpiling, a valuable manure management tool, will not be considered part of the production area; it will be considered part of the land application area. As part of the land application area, the owner/operator/manager is charged with the responsibility of ensuring that there is no run-off or discharge from the stockpile site.

Prior to the Ohio Department of Agriculture taking over the regulatory responsibility for the state permitting program, the Ohio EPA issued only permits to install for concentrated animal feeding operations, had no permit to operate and had no routine inspection program. Now, under the Department of Agriculture, the state requires both a permit to install and a permit to operate, and conducts two on-site inspections each year. Additional inspections are conducted if warranted. As a matter of fact, the Department of Agriculture's Livestock Environmental Permitting Program staff has conducted more than 1,700 inspections since the department began regulating large livestock farms in August 2002. The Department's Livestock Environmental Permitting Program officials conduct a full inspection of each permitted farm every six months, which is 10 times the federal requirement. Additionally, the state permitting program is an overall environmental permitting program designed to protect both ground and surface waters, which makes it twice as stringent as the federal NPDES program as it is designed only to protect surface water.

Few states have permitting programs for large livestock farms that include a permit to install and a permit to operate, and none are as comprehensive and stringent as Ohio's permitting program. Ohio is the only state that requires an environmental background check of the farm's owners and operators. Furthermore, Ohio law does not allow any operation to discharge into surface or ground waters, regardless of the size. Ohio's permitting program for large livestock farms prohibits any discharge into waterways throughout the state and requires all manure and potentially contaminated runoff to be contained and applied to crop land.

Actions taken over the past six years clearly demonstrate that the Department of Agriculture has the expertise and ability to issue permits and enforce regulatory compliance for livestock farms in the state of Ohio that will be required to apply for and obtain a NPDES permit. The Department has operated the state permitting program in an effective and knowledgeable manner. That was the main goal of this effort since the beginning. We are confident that the Department of Agriculture can and will operate the NPDES program in a similar manner. We have already witnessed the Department doing a better job of protecting the environment and precious natural resources through operating one of the nation's most stringent state permitting and compliance programs for large livestock farms.

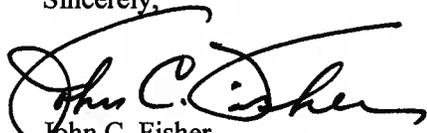
An example of the responsible manner in which the Department of Agriculture operates is how it responds to complaints. State and federal law requires that permitting program staff respond to all written

complaints. The Department's livestock permitting program staff have exceeded this requirement by responding not only to all written complaints it has received, but also responding to oral complaints filed with it as well. This fully demonstrates that the Department of Agriculture is responsible and accountable to all stakeholders involved in protecting the environment, communities and neighbors.

With certain aspects of Ohio's NPDES program being transferred to the Department of Agriculture, livestock farmers that need to obtain both a state permit and a federal permit will now only need to file paperwork with one agency; if they need to apply for both permits at the same time, this will be done under one permit application. This will be more efficient for livestock producers, will be more business friendly and will result in more efficient utilization of taxpayers' dollars as one agency instead of two will be responsible for inspecting and enforcing regulatory compliance.

Once again, we wish to thank US EPA for completing its review of Ohio's NPDES application in which the State proposes to transfer portions of the program related to CAFOs and AFOs from the Ohio EPA to the Ohio Department of Agriculture. We hope that you will positively consider our comments, as well of those who spoke favorably of the proposal at the public hearing conducted by the Agency in Columbus, Ohio, the evening of November 18, 2008. Providing that the rules proposed by the Department of Agriculture related to the NPDES program are not invalidated by JCARR and that the Ohio General Assembly passes House Bill 635 or Senate Bill 383 prior to the adjournment of its 127th Session, we urge the Director of the United States Environmental Protection Agency to approve the transfer.

Sincerely,



John C. Fisher
Executive Vice-President

JCF/dw

cpy: The Hon. Sherrod Brown
The Hon. George Voinovich
The Hon. John A. Boehner
The Hon. Steve Chabot
The Hon. Robert E. Latta
The Hon. David L. Hobson
The Hon. Jim Jordan
The Hon. Marcy Kaptur
The Hon. Dennis J. Kucinich
The Hon. Steven C. LaTourette
The Hon. Deborah Pryce
The Hon. Ralph Regula
The Hon. Timothy Ryan
The Hon. Jean Schmidt
The Hon. Zachary T. Space
The Hon. Betty Sutton
The Hon. Patrick J. Tiberi
The Hon. Marcia L. Fudge
The Hon. Michael Turner
The Hon. Charles A. Wilson