



Missouri Department of dnr.mo.gov

NATURAL RESOURCES

Michael L. Parson, Governor

Carol S. Comer, Director

March 15, 2019

RE: Comments on Valley Oaks Feeders LLC Operating Permit Application

Dear Concerned Citizen:

Thank you for your comments concerning the December 5, 2018, new application from Valley Oaks Feeders LLC for a Concentrated Animal Feeding Operation (CAFO) general operating permit. The application is for a general operating permit for the operation of a Class IB beef CAFO. This letter contains the comments or a summary of comments received during the neighbor notice process and the Missouri Department of Natural Resources' response to comments received. In accordance with 10 CSR 20-6.020(1) (H), the Department does not have jurisdiction to address non-water quality related items.

State statutes and regulations have been developed and passed specifically for design, construction, and operation of CAFOs: Sections 640.700 to 640.750 RSMo, 10 CSR 20-8.300 Manure Design Storage Regulation, and 10 CSR 20-6.300 CAFO Regulation. Additional state statutes and regulations also apply but are not specific to CAFOs. State laws regulating CAFOs must be consistent with and at least as protective as the federal Clean Water Act.

Comments were received requesting the Department hold a public hearing regarding this permit application.

Response: It is at the Department's discretion to determine whether to hold a public hearing. A public hearing is required by 10 CSR 20-6.020(4) only "if there is significant technical merit and concern related to the responsibilities of the Missouri Clean Water Law." The following responses fully address all technical concerns with merit that were raised by comments received during the neighbor notice related to the responsibilities of the Missouri Clean Water Law. Given the responses contained in this letter, there are no valid technical concerns related to the responsibilities of the Missouri Clean Water Law and; therefore, a hearing on this permit application will not be held. As noted by many commenters, the Department previously conducted a public hearing for this CAFO. The current permit application is for a different permit than the previous application, and the requests for a public hearing on this permit application were not related to the differences between those permits, but instead primarily raised general concerns of non-technical merit similar to the concerns raised at the prior public hearing. Therefore, an additional public hearing on this CAFO is not warranted.



Comments were received that a new application should not be considered because the previous permit was revoked.

Response: Chapters 640 and 644 RSMo and implementing regulations in 10 CSR 20-6.300 establish requirements for application submittals, application requirements, and Department reviews. In accordance with 640.715 (4.), the Department shall issue a permit for a CAFO...within 45 days of receiving a completed permit application and verification of compliance with the neighbor notice, buffer distances, and associated design criteria set forth in 640.700 through 640.755 RSMo. The statute does not deem applications invalid based on the status or revocation of previous applications.

Comments were received regarding the compliance history of Mr. Ward, Valley Oaks Feeders LLC and other companies under the same ownership, and past violations and enforcement actions by other state and federal agencies.

Response: Each permitted facility is responsible for complying with regulations and permit requirements. The Missouri Clean Water Law does not provide for the Department to consider violations at other facilities, or violations issued by other agencies, in making a determination related to permit issuance or denial. The Department inspects for compliance, and conducts compliance and enforcement activities as necessary when violations occur.

Comments were received regarding inspection of and enforcement actions for non-compliance at CAFOs.

Response: The Department's regional offices conduct inspections of CAFOs, which includes both routine/announced and unannounced inspections. Violations found are addressed and may be referred to enforcement for significant issues and/or continued non-compliance. Any observed violations or concerns for this facility may be referred to the Department's Kansas City Regional office at 816-622-7000.

Comments were received regarding the ability of the state to oversee the proposed CAFO.

Response: The Department's regional offices conduct regular inspections of permitted CAFOs for compliance with regulations and permit requirements, and the Department promptly investigates all environmental concerns received by the public. All CAFO operating permits require the permittee to notify the Department in the event a discharge occurs, keep records on site, and submit an annual report to the Department.

Comments were received that Missouri CAFO regulations are inadequate, including fee and funding authorities.

Response: CAFO regulations in Missouri incorporate all federal regulations with several additional requirements including buffer distance, neighbor notice requirements, design requirements, protection from inundation from a 100-year flood, and the requirement for all Class I CAFOs to have an operating permit. State regulations at 10 CSR 20-6.300 and 10 CSR 20-8.300 require CAFOs to be designed, constructed, operated, and maintained as No-discharge for the protection of groundwater and surface water. Section 644.051.3.a RSMo states “Any point source system designed to hold, convey, contain, store or treat domestic, agricultural or industrial process wastewater shall be designed by a Professional Engineer registered in Missouri in accordance with the commission's design rules.” These requirements are protective of water quality.

Chapter 644 of the Revised Statutes of Missouri authorize and establish fees for operating and construction permit applications regulated under the Missouri Clean Water Law, including CAFO permit fees. This law also establishes a process for the Missouri Clean Water Commission to review and modify these fee schedules through a rulemaking and stakeholder process. This process occurs periodically and this comment will be considered during future evaluations of permit fees.

Comments were received that additional studies should be conducted to determine environmental impacts.

Response: The regulations developed by the Department for the design and operation of CAFOs are for the protection of surface water and groundwater. These regulations do not allow the Department to require additional site-specific studies to determine environmental impacts prior to rendering a decision on a complete permit application. The no-discharge requirement is the most restrictive effluent limitation that can be required of a permitted facility and is protective of water quality.

Comments were received about the potential of the proposed CAFO to contaminate ground and surface water, including nearby drinking water wells, Jackson County water, and water across the state.

Response: Regulations found in 10 CSR 20-8.300 and 10 CSR 20-6.300 require CAFOs to be designed, constructed, operated, and maintained as no-discharge for the protection of groundwater and surface water. The application indicates the operation was designed by a Professional Engineer registered in Missouri in accordance with design regulations. The permit applied for does not allow for a discharge for any reason. The manure cannot be exposed to precipitation or stormwater without runoff containment prior to its use as a fertilizer. Valley Oaks Feeders LLC must sample the manure for nitrogen and phosphorus content so it is applied at agronomic rates to prevent excess runoff of nutrients. The proposed facility meets the regulatory setback distances to features such as streams, ponds, wetlands, and wells. The no-discharge requirement is the most restrictive effluent limitation that can be required of a permitted facility and is protective of water quality.

Comments were received regarding the requirements for the monitoring of water quality.

Response: The permit applied for does not directly require monitoring for water quality. However, regulations require CAFOs to be designed, constructed, operated, and maintained as no-discharge for the protection of groundwater and surface water. Animals must not have contact with waters of the state and the manure cannot be exposed to precipitation without runoff containment prior to its use as a fertilizer. Valley Oaks Feeders LLC must sample the manure for nitrogen and phosphorus content so that it is applied at agronomic rates to prevent excess runoff of nutrients. The Department's Water Protection Program periodically tests and assesses waterbodies throughout the state with respect to Water Quality Standards. Waterbodies not meeting Water Quality Standards are placed on the impaired waters 303(d) List. This will identify the section of the stream that is impaired and the contributing pollutant(s) to help state and federal agencies to address the water quality issues of that stream. This list can be accessed online at <https://dnr.mo.gov/env/wpp/waterquality/303d/303d.htm>.

Comments were received regarding the potential for odor and air quality, air emissions, including toxic air emissions, air pollution, including dust and particulate impacts from the proposed CAFO.

Response: Class I CAFOs must meet the required minimum buffer distance required between all confinement buildings and wastewater storage structures, and the nearest existing public building or occupied residence. Valley Oaks Feeders LLC complies with the minimum 2,000 ft buffer distance for a Class IB CAFO. This setback is the only state law or regulation affecting odor or air pollution for Class IB CAFOs that falls within the scope of this permit action. The Department's odor regulations for CAFOs apply only to Class IA operations.

Comments were received regarding residences within the buffer distance requirements.

Response: During the previous applications, the Department required the applicant to reevaluate the buffer distance to occupied residences. Upon review, it was determined one confinement building did not comply with the 2,000 ft buffer distance. To comply, the applicant proposed to physically separate the portion of the confinement building not meeting the buffer distance by cutting and removing a portion. In addition, the applicant proposed to add another confinement building to the application and similarly separate the building to comply with the buffer distance (see enclosure; also available at <https://dnr.mo.gov/env/wpp/cafo/index.html>). The buildings that fall within the 2,000 ft buffer distance are not permitted for the confinement of animals. With these modifications, Valley Oaks Feeders LLC has complied with the minimum 2,000 ft buffer distance between the nearest confinement building or wastewater storage structure and public building or occupied residence. Residences that are owned by the CAFO owner are not subject to buffer distance requirements.

Comments were received about the size of the property upon which the CAFO is built and operates.

Response: There are no requirements for minimum acreage established in the CAFO regulations in 10 CSR 20-6.300 and 10 CSR 20-8.300. There are only buffer and setback distance requirements, which the facility meets.

Comments were received about the animal walkway, including the buffer distance to the walkway and the potential runoff from the walkway.

Response: The buffer distance requirements are established in Section 610.710.2 RSMo and 10 CSR 20-6.300(3)(B). All Class I CAFOs must maintain a buffer distance between the nearest animal confinement building or wastewater storage structure and any existing public building or occupied residence. There are no regulatory buffer distances to animal walkways or other areas of operation beyond the confinement *building* or wastewater storage.

The animal walkway is part of the production area. Regulations prohibit discharge of manure, litter, process wastewater, or mortality by-products to surface waters of the state from the production area. As such, any runoff from the walkways into waters of the state would be a violation of the permit. The application identifies measures to maintain no discharge from these areas by containing the manure within walkways and alleyways, cleaning the areas daily and transporting any manure to storage structures.

Comments were received concerning “storm water retention ponds,” that they should be considered process wastewater basins and that a construction permit should be required.

Response: Although there are ponds located at this facility, water from the production area is controlled to prevent it from leaving the production area. The ponds at this facility are used to provide water for the animals, as such, the facility’s plans and operational controls are designed to prevent any water from the production area from entering the watering ponds. The alleyways described above are the only production areas exposed to precipitation and these walkways are cleaned after use, with manure removed to the manure storage area to be combined in with the other dry process waste. Cattle, manure, mortalities, feed, diesel fuel, oils, and lubricants are all stored under cover/roof to prevent water ingress. Equipment is stored under roof and care is taken when moving feed, cattle, manure and mortalities to prevent release in uncovered areas; spills in these areas are promptly cleaned. Berms and swales are used to further divert rainwater from production areas. Grass is also planted to serve as a vegetated filter strip around production areas and the ‘freshwater’ ponds to prevent erosion.

As the ponds do not contain process wastewater and structural and operational controls are in place to prevent process wastewater from entering the ponds, construction of the ponds did not require a construction permit. Stormwater outflows from these ponds during rain events are considered agricultural stormwater and not a regulated discharge.

Comments were received regarding a mitigated wetland near Highway 50, sinkholes, karst topography, springs and losing streams in the vicinity of the CAFO.

Response: Regulation 10 CSR 20-8.300 requires setback distances to features including wetlands, sinkholes, and gaining and losing streams. There is no regulatory setback requirement for springs. Regulation 10 CSR 20-6.300 incorporates by reference the *Missouri Concentrated Animal Feeding Operation Nutrient Management Technical Standard* (NMTS) which includes land application setback distances to wetlands, sinkholes, gaining streams and losing streams. A dataset of gaining and losing streams developed by the Department's Missouri Geological Survey (MGS) was consulted and did not indicate any losing streams within the setback distances of the CAFO. In addition, a Registered Geologist with MGS conducted a stream survey of streams on the Valley Oaks property on January 29, 2019. The evaluation determined these streams to be gaining streams, which have a required setback of only 100 ft. Based on the Department's review, the submitted plans comply with all of these setback requirements.

Comments were received raising concerns about soil properties in the area of the confinement buildings including permeability, rock content, runoff class, depth to bedrock, and depth to water table.

Response: 10 CSR 20-8.300 requires floors and pads of solid manure storage structures to be constructed of watertight materials such as concrete or compacted earthen base. Earthen floors must be at least two ft above the groundwater table and bedrock, and meet permeability requirements in the United States Department of Agriculture's *National Engineering Handbook, Agricultural Waste Management Field Handbook*. The floors of confinement buildings and solid manure storage buildings are constructed of concrete. There are no regulatory requirements for runoff class or rock content of soils in the design or operation of a CAFO.

Comments received indicated NPDES permits allow accidental discharge of waste products during periods of high rainfall and the commenter(s) were concerned about the impacts of those discharges. Comments were received about the change from the previous NPDES permit for this facility to the state no-discharge permit. Comments suggested a site specific permit would be more appropriate than the state no-discharge permit.

Response: NPDES permits do allow for process waste discharges as a result of chronic or catastrophic rainfall events in accordance with 40 CFR 412. This CAFO application is for a state no-discharge permit, not a NPDES permit. As such, any discharge is a violation of the permit.

The no-discharge requirement is the most stringent permit condition for any facility. In the future, should this facility be found to be discharging, the Department will seek to address this noncompliance.

Comments expressing concern about the location of the proposed CAFO, especially one of this size, in relation to residential areas, populated areas, neighborhoods, and 100 year floodplain and Powell Gardens.

Response: In addition to the buffer distance requirement, the Department reviews the confinement buildings for the regulatory requirements of setback distances, geohydrologic evaluation if required, and protection from inundation from a 100-year flood event. Maps submitted with the application show all confinement buildings and manure-storage structures to be located outside of the Federal Emergency Management Agency 100-year flood area and compliant with all regulatory setback distances. These are the only requirements regarding location that fall within the scope of this permit action. The Department is unable to give consideration to the types of entities that exist beyond the buffer distance. Extension guidance documents are not regulatory and cannot be enforced by the Department.

Comments were received regarding the handling and storage of manure and urine produced by the operation, and whether a containment tank is required.

Response: Manure as defined in 10 CSR 20-8.300 includes the fecal and urinary excrements of animals. The facility proposes to use bedding material to adsorb the liquid portion of the manure resulting in solid material. The manure and bedding will be stored in confinement and compost buildings and not exposed to stormwater runoff or precipitation prior to use as a fertilizer. No process wastewater is proposed to be generated at the CAFO that would necessitate a liquid containment structure.

Comments were received about the “stem walls” and manure containment in the confinement barns, specifically that the manure is contained in the confinement pen area with only “stem walls” with gaps along the bottom. The comments often stated that manure would run out or ooze through these large holes, directly into soil and water. Comments were received about liquid waste storage. The comments stated these gaps under the wall will cause manure to discharge onto bare ground and then into the waters of the state. Some also stated that rain water could run through the manure.

Response: This permit application and supporting documentation describe the confinement barn structure, including feed troughs that serve as an interior “wall” along one side of each confinement area. These food troughs are the “stem walls” mentioned in comments that have legs and an open space beneath them. The gaps beneath the food troughs are now filled in with concrete, creating a solid concrete pen wall or “stem” wall. The confinement buildings also incorporate the following components for manure containment:

1. The current application documents indicate the confinement areas of the buildings utilize bedding to maintain the manure as a *dry* process waste. Dry process waste is defined in 10 CSR 20-6.300 as “a process waste mixture which may include manure, litter, or compost (including bedding, compost, mortality by products, or other raw materials which is commingled with manure) and has less than seventy-five percent (75%) moisture content and *does not contain any free draining liquids.*” As such, there are no liquids or fluids to run or ooze out of the containment pens.

2. The food troughs (stem walls) are the exterior barrier of the confinement pens. If any waste were to be outside the confinement pen, it would be contained under roof on a concrete alleyway outside of the troughs and confinement pens. The application states that manure in the alleyways will be cleaned up and transported to a manure storage structure.
3. Also, beyond the food troughs and the driveway are some exterior solid concrete walls running the full length of the barn. These walls, along with a gutter and stormwater drain system, prevent precipitation and stormwater from coming into contact with manure. These outer walls would also serve to contain dry process waste if needed.
4. The application indicates the dry process waste will only be stored to 12 inches in the confinement pens, not the 27 inches mentioned in some of the comments.

10 CSR 20-6.300(2)(E)2 does not allow the Department to examine the adequacy or efficiency of structural components of waste management systems, only the adherence to the regulations. With regards to solid manure components, this includes the requirements for diversion of stormwater from confinement buildings and that floors and pads be constructed of watertight materials such as concrete or a compacted earthen base. The application is sealed by a Professional Engineer registered in Missouri along with a statement that the project is designed in accordance with 10 CSR 20-8.300. There is no regulatory requirement that prohibits the containment design described in the application. The permit requires these areas to be operated as no-discharge areas, meaning discharges of manure, litter, or process wastewater to waters of the state are not allowed. Proper operation, containment, and response activities would be checked, investigated, addressed, and/or confirmed during routine compliance inspections.

Comments were received regarding the crop yields, manure calculations, and associated manure storage at this facility. Commenters also raised concerns with manure storage up to 27" in the containment pens.

Response: The crop yields in the Nutrient Management Plan (NMP) are similar to county averages or are justified by references listed in the NMP, as required by 10 CSR 20-6.300(3)(G)2. and the NMTS. The application included the manure storage calculations. The storage amounts meet the requirements of 10 CSR 20-8.300 based upon many factors, including:

1. The manure generation for the anticipated numbers and sizes of cows, based on the widely used and Department accepted industry standard, *Manure Characteristics, Manure Management Systems, Second Edition*, published by the MidWest Plan Service;
2. Manure storage barn capacities, including a new, third storage barn;
3. Confinement pen manure storage up to 12 inches;
4. Bedding to keep the manure moisture content no higher than 74.5 percent for dry process waste, in accordance with 10 CSR 20-6.300(1)(B)11. in all storage areas;
5. The amount of manure exported with 90 days of storage, as required by 10 CSR 20-8.300(5)(B)3;
6. The amount of manure land applied with 180 days of storage, as required by 10 CSR 20-8.300(5)(B)2; and

7. Manure does not have to be segregated into separate storage areas for export and land application. The design is simply required to provide adequate storage for the manure volumes generated using the above criteria. Furthermore, records must document manure land applied and manure exported which may be reviewed during an inspection or a facility records/annual report review. Inspections will confirm that all manure is properly stored in accordance with the facility's plans reviewed during the permit application.

Manure calculations provided during the application process demonstrate that over 180 days of storage is available for all manure (even manure to be exported, which requires only 90 days of storage). These calculations were updated from the original application and the original submittal for this application to reflect the 7 factors above, as well as the construction of an additional manure storage building in conjunction with the construction of the proposed confinement buildings. The manure storage information on the application form was also updated and is now consistent with the final manure generation and storage calculations.

Comments were received that manure is being land applied, including concerns that it may be sprayed and not disked in or covered.

Response: Land application does not require post-application coverage or disking, so long as the surface application rates meet the infiltration rate and water holding capacity of the soil. Land application must be conducted so as to prevent surface runoff, in accordance with 10 CSR 20-6.300(5) and the NMTS.

Comments were received about runoff from land application fields getting on to adjoining property and who is responsible for any environmental impacts.

Response: Discharges of manure to waters of the state resulting from land application of manure, litter, or process wastewater by the CAFO are not permitted. Any such discharge is a violation and is subject to compliance and enforcement actions.

If a third party is conducting the land application to fields that are not under the operational control of the CAFO, the third party is responsible for the transportation and application of manure. As with any commercial fertilizer, the Department does not regulate the application of manure to land that is not under the operational control of the CAFO owner. However, over-application of the manure that impacts a water body may be found unlawful according to Missouri law. Any agreement between the CAFO, applicator, or landowner regarding liability is a civil agreement between those parties.

Comments were received regarding Valley Oaks Feeders LLC's development of their NMP and that recent land applications do not comply with the NMP submitted with the permit application.

Response: Regulations require all permitted CAFOs to develop and implement a NMP that addresses nine required elements. Fields that are not under operational control of the CAFO operator are not required to be included in the NMP. The Department has reviewed the required elements of the NMP and determined that it complies with the regulatory requirements. Regulations also require the CAFO to keep records of all manure applications under its operational control and to submit a summary of those applications with the annual report. During inspections, Department staff review compliance with the terms of the NMP.

Comments were received that not all of the nutrients will be absorbed or available to crops, and that with nitrogen-based applications phosphorus will be over-applied and could cause soil pollution.

Response: Manure contains inorganic and organic forms of nitrogen. Inorganic nitrogen is immediately available to plants, but some can be lost by volatilization. Incorporating manure reduces the amount that is lost to volatilization. Organic nitrogen must go through a mineralization process before it is available to the plants. A portion of this is available the first year, some the second year, and some is never available. Application rates must be calculated every year using the Plant Available Nitrogen (PAN) calculation. The PAN calculation takes into account the organic nitrogen that is available from the previous year's application, as well as any nitrogen excess or deficiencies resulting from the previous year's crop.

Valley Oaks Feeders LLC must test manure for both nitrogen and phosphorus. Nitrogen-based applications are allowed if soil test phosphorus (P) levels are low, medium, or optimum, or if the P-index rating is low or medium. While nitrogen-based manure applications under these conditions will often apply more phosphorus than is needed by the crop, the excess is beneficial for soil health.

If soil test phosphorus levels are high, or the P-index rating is high, manure applications must be phosphorus based. If soil test phosphorus levels are high and the P-index rating is very high, no manure applications are allowed.

Comments were received about manure being exported/sold and applied to fields that are not under the NMP of Valley Oaks Feeders LLC.

Response: Any manure applied to land application areas that are in the Valley Oaks Feeders LLC NMP must be conducted in accordance with Valley Oaks Feeders LLC's NMP and the NMTS. The amount of nutrients supplied by all manure applications to land application areas in the Valley Oaks Feeders LLC's NMP shall not exceed the agronomic rate which is to be calculated each year based on the crop grown, realistic yield goal, current manure analysis, and current soil tests. No additional permits are required for any manure exported or sold to third parties as long as the application of the manure does not result in a discharge to waters of the state and does not render such waters harmful, detrimental, or injurious to public health, safety, or welfare, or to industrial or agricultural uses, or to wild animals, birds, or fish, as established in 644.059 and 644.051, RSMo.

Comments were received regarding mortality management at Valley Oaks Feeders LLC.

Response: Each operation may choose the method of mortality management used. Acceptable methods include composting, incineration, rendering, and transport to a permitted landfill. Burial cannot be used for disposal of routine mortalities but may be used in the event of a mass mortality event and must be done in accordance with Missouri Department of Agriculture regulations. Valley Oaks Feeders LLC has identified off-site rendering as their method of mortality management.

Comments were received regarding discharges resulting from accidents or spills, the requirement for the facility to self-report discharges, and penalties for discharges or other non-compliance issues.

Response: CAFO permits contain requirements for inspections that are to be conducted by the CAFO on a regular basis. Records are required to be kept of these inspections and any deficiencies found during these inspections are to be noted and corrected as soon as possible. These inspections are intended to prevent unauthorized discharges. In the event of an unauthorized discharge, the CAFO must report any discharge to the Department within 24 hours of becoming aware of the discharge. This reporting requirement is consistent with other general and site-specific permits issued by the Department. Any unauthorized discharge is a violation and subject to compliance and enforcement actions. The type and severity of the actions taken, including penalties, are determined on a case-by-case basis.

Environmental concerns in the Kansas City region can be reported by contacting the Department's Kansas City Regional Office at 816-251-0700 or by visiting <https://dnr.mo.gov/concern.htm>. Reported discharges and environmental concerns are promptly investigated by the Department.

Comments were received about the chemicals stored at this facility, specifically Part 9 of the application.

Response: NMPs are required to ensure chemicals and other contaminants handled within the animal production facilities are not disposed of in any manure, litter, process wastewater, or stormwater storage or treatment system unless specifically designed to treat such chemicals and other contaminants, in accordance with 10 CSR 20-6.300(5)(E). All chemicals at this facility are stored, handled, and disposed of according to manufacturer labels. Chemicals are stored and handled in areas that are protected from precipitation and runoff and any spill within these areas would remain contained within the protected area. No chemicals are stored or handled in the production areas. Part 9 of Form W addresses different situations for chemical handling that may exist at an operation. Applicants can check those that are applicable to their operation.

Comments were received about the effects the proposed CAFO may have on groundwater levels and/or water quantity.

Response: In Missouri there are no statutes or regulations that specify how much groundwater may be used. Missouri is a riparian water rights state, which means all landowners generally have a right to a reasonable use of their water resources.

Comments were received concerning the CAFO's water source and area residents experiencing low water pressure and/or hard water, even prior to the CAFO installation.

Response: The CAFO's water source is at the discretion of the owner. The Missouri Clean Water Law and its implementing regulations do not establish requirements specific to the water source of a CAFO. This issue does not fall within the scope of this permit action. If an existing well is to be used or a new well is constructed, it must meet requirements in 10 CSR 23-3. If you experience low water pressure or hard water, you should contact your water supplier.

Comments were received relating to health issues.

Response: The Missouri Department of Health and Senior Services indicates that "a review of scientific literature by the Missouri Department of Health and Senior Services has not documented conclusive evidence that concentrated animal feeding operations (CAFO) are a source of infectious, contagious, or communicable disease to surrounding communities." Source: <https://health.mo.gov/living/environment/hazsubstancesites/pdf/DHSSPerspectiveCAFO.pdf>

Comments were received relating the use of antibiotics, other pharmaceutical products, and the prevention and spreading of diseases, E. coli and links to CAFOs, health and welfare of livestock, and insects, rodents and other pest concerns.

Response: The Missouri Clean Water Law and its implementing regulations do not establish requirements for livestock welfare, antibiotic use, insects, rodents, or other pests. These issues do not fall within the scope of this permit action.

Comments were received relating to noise, local traffic conditions, maintenance of the roads, control of noxious weeds, quality of life and lifestyles, politics, nuisance impacts, property values, property tax revenues, finances, property use, real estate sales and income, local and facility job force, neighbor relations, local wildlife patterns, pests, hay costs, grain fed vs. grass fed beef, nutrition, stability of the national food supply, food suppliers, animal cruelty, extreme weather events, general use of pesticides and herbicides (not facility specific), light pollution, and other states' regulations and issues with CAFOs.

Response: The Missouri Clean Water Law and its implementing regulations do not regulate noise, local traffic conditions, maintenance of the roads, control of noxious weeds or pests, quality of life, property values, property use, grain fed versus grass fed beef or light pollution. These issues do not fall within the scope of this permit action.

Comments were received asking if the public would be made aware of contacts and reports made to the Department by Valley Oaks Feeders LLC and where they would be located.

Response: Information such as annual reports and inspection reports can be obtained through the submission of a Sunshine Request. For more information about making a Sunshine Request, please visit the Departments Open Records/Sunshine webpage at <https://dnr.mo.gov/sunshinerequests.htm>. A Sunshine Request does not create an obligation by the Department to create documents that do not exist or to transmit material on a continuing basis.

Comments were received the Department should take into account the public opposition to the facility, and that the Department deny the application and not issue a permit to Valley Oaks Feeders LLC.

Response: The Department reviews and considers all relevant and material comments before making a final decision. Section 644.051 RSMo requires that permits be issued or denied based upon compliance with state law.

Comments were received regarding the fact that Mr. Ward does not live on site.

Response: The Department acknowledges the community's concern; however, this issue does not fall within the scope of this permit action and is outside the jurisdiction of the Missouri Clean Water Law.

Comments were received about the on-site lagoon.

Response: The only on-site wastewater lagoon is for the slaughterhouse and processing facility, which is regulated by a different permit. CAFO waste is not processed through or held in this lagoon.

Comments were received that manure was "dumped" on a neighboring property, without permission from the owner, and that the Department did not address this problem.

Response: The Department is aware of a land operator acquiring manure from Valley Oaks Feeders LLC to use as a fertilizer which is an acceptable and common practice when conducted in compliance with applicable regulations. This exchange is commonly referred to as manure that is "exported" from the CAFO to be land applied as fertilizer on land that is not under to operational control of the CAFO. Based on the Department's investigation, the manure was legally transferred to the third party (property operator) with an intent to use as fertilizer and Valley Oaks Feeders LLC did not dump, place, or become directly involved with the use of the material once it left the facility. As such, the Department does not have any information to substantiate the comments that infer that Valley Oaks Feeders LLC illegally "dumped" manure on a neighboring property.

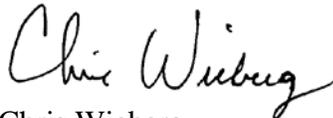
Conclusion

The Department has reviewed the Valley Oaks Feeders LLC application and considered all relevant and material comments received during the neighbor notice process. The Department is obligated to review each application equally with respect to compliance with regulations set forth by the Clean Water Commission. Based upon this review, we have determined that the operating permit application is complete and that the operation meets the requirements of the Missouri Clean Water Law. In accordance with Missouri's regulations found in 10 CSR 20-6.300 and 10 CSR 20-8.300, an operating permit will be issued to Valley Oaks Feeders LLC.

Thank you for taking the time to provide your comments. We hope this letter was valuable in providing answers to your questions, and if you have further questions, please contact the Department's CAFO Team by phone at 573-522-4502 or by mail at Department of Natural Resources, Water Protection Program, P.O. Box 176, Jefferson City, MO 65102-0176.

Sincerely,

WATER PROTECTION PROGRAM



Chris Wieberg
Director

CW:gcs

c: Mr. Jeremiah Jackson, R.G., Missouri Geological Survey
Valley Oaks Feeders LLC