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May 25, 2016

Mr. Chuck Gipp, Director
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, IA 50309

Dear Director Gipp:

I am writing today on behalf of the Iowa Environmental Council (Council), an alliance of over sixty Iowa environmental organizations, in regards to the new proposal from Reicksview Family Farms/Churchwood LLC (Reicksview) to construct a hog confinement facility for 2,499 animals in Allamakee County. The Council continues to be concerned about the proposal to locate a confinement feeding operation in this environmentally sensitive area, and we request that DNR take the steps outlined below to ensure that the region's groundwater and outstanding coldwater trout streams are protected.

I. DNR should require an MMP that protects the waters in this region.

As we emphasized in our letter of April 28, the presence of karst terrain in Allamakee County makes this region an especially environmentally sensitive area, which is not a suitable location for a hog confinement facility that will require the land application of significant quantities of liquid manure. We are especially concerned by the fact that not just the facility but, according to the Reicksview manure management plan filed with its initial application, most of the fields on which manure from the facility will be applied are located within the watersheds of several high quality trout streams. Spreading manure in a karst landscape presents a heightened risk of potential contamination of both groundwater surface waters due to the "rapid interconnection between surface and ground waters in these areas," according to an Wisconsin inter-agency task force that studied the application of manure in karst terrain.¹ In fact, this task force concluded that "prevention of all surface contamination of groundwater is a physical impossibility" when manure is land-applied in karst terrain, although steps can be taken to minimize these impacts.²

Given the high potential of contamination of surface and groundwater from land-applying manure in this region, the Council believes that the Reicksview proposal should trigger a "departmental evaluation" as described in Chapter 65 of the Iowa Administrative Code.³ This provision authorizes the Department of Natural Resources (DNR) to "evaluate any animal feeding operation" to determine if, among other potential risks to the environment, "Manure

¹¹ Northeast Wisconsin Task Force, *Final Report* (2007), at page 5.

² *Id.*

³ 567 Iowa Administrative Code § 65.5 Departmental Evaluation.

from the operation...may reasonably be expected to cause pollution of a water of the state.”⁴ In conducting such an evaluation, DNR must consider certain factors including, “The proximity of the structures or manure application areas to sensitive areas, including...trout stream and karst terrain,” with respect to their “potential adverse impacts on natural resources or the environment.”⁵ DNR’s authority to conduct a departmental evaluation applies to any proposed animal feeding operation “that requires a construction permit *or manure management plan* [emphasis added]” and so is applicable in this case, where Reicksview must submit a manure management plan to DNR as prerequisite to obtaining a construction approval letter.⁶

If, as a result of the departmental evaluation, the director determines that the operation “would reasonably be expected to result” in pollution of a water of the state, the department may require the “operational steps necessary to avoid or minimize the impacts.” Such steps include requiring “amendments to the manure management plan in addition to the minimum requirements established for such operations” and on “the location of...manure application,” as well as other conditions the department deems necessary.⁷ The department may disapprove any MMP that it determines would reasonably be expected to cause pollution of a water of the state.⁸

Pursuant to DNR’s authority under this provision, the Council requests that first, DNR conduct a hydrogeological and environmental review of the facility’s manure management plan (MMP), similar to the one performed for the Weber Swine facility located in the watershed of an Outstanding Iowa Water (OIW) trout stream in Allamakee County.⁹ (This report is attached as Appendix A.) Next, after such an evaluation of all of the parcels included in Reicksview’s MMP, DNR will be able to determine what additional conditions are required to adequately protect the waters of the state from potential contamination. The task force report referenced above (attached as Appendix B) includes specific recommended application techniques and rates for applying manure to areas of various soil depths in karst terrain. The Wisconsin task force recommendations, along with other necessary precautions determined by the Iowa DNR’s hydrological review of the facility’s proposed MMP sites, should be required for approval of the facility’s MMP in order to avoid or minimize adverse impacts to waters of the state.

II. DNR must require an individual SW NPDES permit for construction in the watershed of an OIW.

Pursuant to Iowa’s water quality standards and Antidegradation Implementation Procedure (AIP), construction activity that disturbs one or more acre *or* that is part of a larger project that disturbs one or more acres requires an individual NPDES storm water permit when located in the watershed of an OWI (listed in Appendix B of the AIP).¹⁰ Reicksview is proposing to build its facility in close proximity to an intermittent stream that drains directly into Village Creek, an

⁴ 567 Iowa Administrative Code § 65.5(1)(b).

⁵ 567 Iowa Administrative Code § 65.5(3).

⁶ 567 Iowa Administrative Code § 65.9(3)(d).

⁷ 567 Iowa Administrative Code § 65.5(3)(c).

⁸ 567 Iowa Administrative Code § 65.5(3)(b).

⁹ Memorandum, DNR, *Hydrogeologic and Environmental Review of Weber Swine Facility* MMP (April 17, 2000).

¹⁰ Iowa Antidegradation Implementation Procedure at p. 22; *see also* Iowa DNR, “Who Must Apply for an NPDES Storm Water Permit,” available online at <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Storm-Water/Who-Must-Apply>. (“General permit coverage is not available for these discharges.”)

OIW listed in Appendix B of the AIP. Because of this proposed construction activity within the watershed of an OIW, an individual NPDES storm water permit is required.

Furthermore, the AIP provides that all OIWs are Tier 2 ½ waters, and that “[i]n general, degradation of OIWs from new sources is prohibited.”¹¹ The department *may* allow degradation of Tier 2 ½ waters only in certain situations, including when the degradation will be “temporary and limited” as defined in the AIP. Although DNR may allow degradation of Tier 2 ½ waters in these narrowly defined circumstances, it is within the discretion of the department whether to do so.

III. DNR must require groundwater monitoring for a formed manure storage structure located in karst terrain.

Because Reicksview is proposing to construct a facility that is not a small animal feeding operation that will be located in karst terrain, a formed manure storage structure must be constructed that complies with the standards and specifications of IAC 567—65.15(14).¹² These upgraded standards for constructing in karst terrain include the requirement that “Groundwater monitoring shall be performed as specified by the department.”¹³ Groundwater in a karst landscape is extremely vulnerable to contamination from the liquid manure that is stored or applied there, including water that is a drinking water source for private wells.¹⁴ It is therefore very important that DNR require groundwater monitoring, including gathering baseline water quality data before construction. Such monitoring should be required not only in the proximity of the formed storage structure, but also in the proposed locations where Reicksview is proposing to apply manure from the facility.

The Council strongly encourages DNR to take the actions above in order to minimize the risk to the surface and groundwater resources of Allamakee County from Reicksview’s proposed facility. Please contact us if you have any questions about our concerns and recommended actions. Thank you for your time and attention to this matter.

Sincerely,

Clare Kernek

Clare Kernek
Water Program Attorney
Iowa Environmental Council

¹¹ Iowa Antidegradation Implementation Procedure at p. 5.

¹² See 567 Iowa Administrative Code § 65.9(5)(b). “Karst terrain submittal requirements.”

¹³ 567 Iowa Administrative Code § 65.15(14)(c)(4).

¹⁴ In Kewaunee County, WI, where large amounts of liquid manure are land applied in a karst region, 30% of private wells have tested as unsafe due to contamination from nitrates or bacteria, including toxic salmonella. Kate Golden, “Bad wells spur county to mull waste spreading restrictions,” August 26, 2014. Available online at <http://wisconsinwatch.org/2014/08/bad-wells-spur-kewaunee-county-to-mull-waste-spreading-restrictions/>.