



## Minnesota Pollution Control Agency

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November 21, 2012

Mr. Gary Modlin  
Petitioners' Representative  
12344 Sugar Drive  
Lowry, MN 56349

Mr. and Ms. Curt and Angela Blair  
13452 240<sup>th</sup> Avenue  
Glenwood, MN 56334

Mr. David R. Anderson  
Petitioners' Representative  
23750 127<sup>th</sup> Street  
Glenwood, MN 56334

RE: Petition for Environmental Assessment Worksheet on the Proposed  
Curtis Blair Farm Expansion  
Reno Township, Pope County, Minnesota

Dear Mr. Modlin, Mr. Anderson, and Mr. and Ms. Blair:

The Minnesota Pollution Control Agency has granted the petition for an Environmental Assessment Worksheet (EAW), which concludes that this project may have the potential for significant environmental effects. Therefore, an EAW will be prepared for this project. A copy of the Findings of Fact, Conclusions of Law, and Order on this matter is enclosed. Interested parties will receive a copy of the EAW when it is prepared, and put on notice for a 30-day comment period.

Please contact Charles Peterson with questions about this project at 651-757-2856 or toll free at 800-657-3864.

Sincerely,

A handwritten signature in black ink that reads "Craig Affeldt".

Craig Affeldt  
Supervisor, Environmental Review Unit  
Resource Management and Assistance Division

CA:mbo

Enclosure

**STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY**

**IN THE MATTER OF THE DECISION ON THE  
PETITION TO PREPARE AN ENVIRONMENTAL  
ASSESSMENT WORKSHEET FOR THE PROPOSED  
CURTIS BLAIR FARM EXPANSION  
RENO TOWNSHIP, POPE COUNTY, MINNESOTA**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

**FINDINGS OF FACT**

Pursuant to Minn. R. ch. 4410, the Minnesota Pollution Control Agency (MPCA) staff received a petition, transmitted through the Minnesota Environmental Quality Board (EQB), requesting the preparation of an Environmental Assessment Worksheet (EAW) for the proposed Curtis Blair Farm Expansion (Project). Evidence submitted by the petitioners and the Project proposer, and information contained in MPCA files has been reviewed pursuant to Minn. R. 4410.1100 to determine whether the Project may have the potential for significant environmental effects. Based on this record, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order.

**Project Description**

1. Curtis Blair, through a feedlot permit application submitted to the MPCA on August 6, 2012, proposes to expand an existing cattle feedlot known as the Curtis Blair Farm, located in the SW¼ of the NW¼ of Section 23, Township 126 North, Range 38 West, Reno Township, Pope County.
2. The existing feedlot and Project is located in the Chippewa River watershed in the Minnesota River Basin. The site of the Project and the anticipated manure application sites are located in the subwatersheds draining to Lake Ann and Lake Reno.
3. The existing feedlot currently houses 950 head of beef slaughter steers/heifers/stock cows or bulls. (950 animal units, or AUs). The existing feedlot consists of partial confinement barns, open lots with runoff controls, a runoff storage pond, and an existing feed storage area.
4. The applicant is proposing to expand the facility to 1,900 head of slaughter steer/heifers/stock cows or bulls (1,900 AUs). The feedlot will consist of partial confinement barns, open lots with runoff controls, temporary stockpiling of manure, and earthen manure storage basin and feed storage area. The applicant is proposing to close a vegetated treatment area, add a 30-foot by 60-foot commodity shed, a 75-foot by 150-foot concrete storage pad, and add irrigation capability for additional management of wastewater collected and stored in the basin. The total permitted AU capacity is proposed to be 1,900.
5. The proposed increase in the number of AUs at the location of the feedlot does not meet the threshold for a mandatory EAW as defined in Minn. R. 4410.4300, subp. 29, A and B.

### **Procedural History**

6. An enforcement action was undertaken by the MPCA on the existing feedlot due to noncompliance on April 4, 2012. A stipulation agreement was entered into by the MPCA and the Project proposer to resolve an enforcement action related to the number of AUs at the facility and the need for corrective actions to address runoff from open lots and the feed storage area. The stipulation included a fine and required the submittal of an application for an individual National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit.
7. On August 6, 2012, the MPCA received a feedlot permit application for the proposed Project.
8. On September 26, 2012, the EQB received a petition for the preparation of an EAW on the proposed Project, pursuant to Minn. R. 4410.1100.
9. The EQB determined the MPCA was the responsible government unit (RGU). The petition was forwarded to the MPCA on September 27, 2012.
10. On October 3, 2012, the MPCA notified the petitioners' representatives and the Project proposer that a petition for an EAW had been received. The parties were further informed that the decision to grant or deny the petition would be made by the MPCA Commissioner unless a member of the MPCA Citizens' Board (Board) requested that the decision be made by the Board. Pursuant to the time frame established by the MPCA Commissioner, such a request was to be made within 10 working days after the date of the letter. Interested parties have the option of contacting members of the Board to request that the decision be made by the Board.
11. No Board members requested to have the petition heard at a Board meeting.
12. On October 5, 2012, the MPCA received supplemental permit application information.

### **Concerns Raised in the Petition Regarding the Potential for Significant Environmental Effects and Criteria for EAW Decision**

13. The primary areas of concern expressed in the petition are as follows.
  - air quality and odor
  - water quality of Lake Ann and Lake Reno
  - general concerns related to groundwater quality, traffic, and spills
14. The criteria for ordering the preparation of an EAW in response to a petition are specified in Minn. R. 4410.1100, subp. 6, which states, in part:

The RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects. The RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects. In considering the evidence, the RGU must take into account the factors listed in part 4410.1700, subpart 7.

15. Minn. R. 4410.1700, subp. 7 states the following:

In deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

- A. type, extent, and reversibility of environmental effects;
- B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;
- C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and
- D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

16. The MPCA evaluated the issues raised by the petitioners and the evidence submitted with the petition to determine whether the proposed Project may have the potential for significant environmental effects, and whether an EAW should be ordered as requested by the petition.

Air quality and odor

17. The petition contends there will be a decrease in air quality as a result of the proposed Project, and that use and enjoyment of owners of residential and agricultural property in the immediate area will be adversely impacted by odor. It was also indicated that there have been previous complaints related to air quality regarding this site.

18. The proposed Project is a potential source of hydrogen sulfide, ammonia, and odor emissions. Minnesota has a hydrogen sulfide ambient air quality standard that must be met at the property line of any source of hydrogen sulfide emissions, including feedlots, and ammonia emissions from feedlots may be of concern with respect to potential human health impacts. While the MPCA does not have air quality standards for odor, the intensity of odor from feedlots may be of concern with respect to the potential for nuisance conditions experienced at nearby residences, daycare facilities, places of worship, etc. The MPCA requires air quality modeling for feedlot projects undergoing environmental review as a means to assess these effects.

19. In addition, an application has been submitted for a different feedlot expansion project (Reichmann Land & Cattle LLP – Blair West Site Feedlot Expansion) proposed to be located approximately three-quarters of a mile from the Reichmann Project site. This is within the standard 3-mile by 3-mile air modeling grid used to evaluate air quality impacts associated with feedlots. No air quality data is currently available to evaluate, either individually or cumulatively, the potential effect(s) of hydrogen sulfide, ammonia, or odor emissions from the proposed projects.

20. Air quality modeling and MPCA staff experience with other feedlots has shown that proposals to construct or expand feedlots may have the potential for significant impacts related to hydrogen sulfide, ammonia, and odor emissions, and that changes in the site configuration or facility design may be necessary to mitigate potential impacts. In addition, MPCA staff experience has found that when there are two or more projects within a 3-mile by 3-mile grid, the potential for significant cumulative air quality effects may increase.
21. The MPCA has no information to conclude the hydrogen sulfide ambient air quality standard will be met if the proposed Project is implemented. The MPCA is also unable to conclude that the two proposed feedlot expansion projects will not have significant cumulative effects on air quality.
22. Air quality modeling would predict ambient air concentrations of hydrogen sulfide and ammonia at the proposed Project's property boundaries and odor intensity at all neighboring residences within a 3-mile by 3-mile grid. The modeling results would be compared to hydrogen sulfide air quality standards, ammonia inhalation health risk values, and odor intensities associated with nuisance odor conditions.
23. Because of the lack of air quality data and the anticipated expansion of a separate feedlot located near the proposed Project site, the MPCA finds that the proposed Project may have the potential for significant environmental effects related to air quality.
24. The MPCA, therefore, finds that an EAW should be prepared to evaluate the air quality impacts from the proposed Project, both specific to the proposed Project, as well as in a 3-mile by 3-mile area around the proposed Project.

Water quality of Lake Ann and Lake Reno

25. The petition notes that nearby Lake Ann and Lake Reno are impaired due to excess nutrients (total phosphorus). A study was conducted to determine the acceptable Total Maximum Daily Load (TMDL) for phosphorus that must be achieved to meet water quality standards. A draft report, the "Pope County 8 Lakes TMDL" (draft TMDL report), was completed in May 2011, and made available for public comment from July 23, 2012, until October 17, 2012.
26. According to the draft TMDL report, phosphorus levels in Lake Ann would have to be reduced by 90 percent in order to achieve the recommended TMDL. This is a reduction of approximately 10,929 pounds of total phosphorus annually. The draft TMDL report also indicates that phosphorus levels in Lake Reno must be reduced by 36 percent (about 744 pounds of phosphorus annually) in order to achieve the Lake Reno TMDL and meet water quality standards. The draft TMDL report also discusses the development of implementation strategies needed to achieve these reductions.
27. The draft TMDL report indicates that Lake Ann is subject to substantial internal phosphorus loading; however, the draft TMDL report also notes that reductions in phosphorus loading from agricultural fields, feedlots, and drain tiles will be necessary to reduce phosphorus levels and improve the water quality of Lake Ann.

28. The draft TMDL report indicates that atmospheric loading is the largest source of phosphorus to Lake Reno. Since atmospheric sources of phosphorus cannot be controlled or reduced, lake improvement efforts must focus on reducing inputs from the remaining sources within the watershed.
29. Lake Reno outlets to Maple Lake, a high quality lake with low phosphorus levels. The petition contends that the proposed Project will result in impacts to Maple Lake and other downstream waters that receive drainage from the Lake Ann and Lake Reno watersheds. The draft TMDL report indicates that Maple Lake may have exhibited declining water quality over the past few years.
30. Feedlot NPDES/SDS Permits issued by the MPCA contain operation and maintenance requirements intended to mitigate potential adverse water quality impacts from nutrients associated with manure management. These requirements are contained in federal and state regulations. Manure management plans are incorporated into and become enforceable parts of the permit.
31. The requirements pertaining to manure application provide best management practices to control nutrient transport; however, additional mitigation measures may be desirable and appropriate to further control phosphorus transport within the watersheds of a lakes in which uses are impaired due to eutrophic conditions.
32. The MPCA finds that the preparation of an EAW may provide information on phosphorus mitigation measures that could inform manure management activities for the proposed Project, the development of the Lake Ann and Lake Reno TMDL Implementation Plans, and future diagnostic/feasibility studies that may be prepared for the improvement of these lakes.
33. The petition also describes, and includes a photograph of, an incident on September 21, 2012, at approximately 7:00 p.m., where manure was allegedly spread less than 100 feet from the shoreline of an unidentified lake and a runoff ditch that leads directly into Lake Reno. The description also indicates that the areas where the manure was deposited are areas that could not allow for incorporation of manure into the soil due to wooded conditions. The petition does not indicate who the owner of the manure or applicator equipment was.
34. The MPCA finds that the description and photograph must be considered as a complaint regarding an unnamed and, therefore, unknown source of manure and its application. Such information, when received, must be appropriately addressed as a potential compliance and enforcement matter.

*General concerns related to groundwater quality, traffic and spills*

35. The petitioners believe the Project will cause groundwater contamination to private wells at numerous residences within a mile of the farm.

36. Engineering design standards, operation and maintenance requirements in the MPCA feedlot permit, and the requirements for nitrogen management related to manure application have been developed to protect the quality of groundwater. The MPCA finds that the Project does not have the potential for significant impacts on groundwater.
37. The petition indicates that increased semi-trailer traffic is anticipated since off-site hauling is part of the proposed Project. The increase in traffic will increase the possibility of spills on roadways.
38. The proposed Project will result in some increase in traffic; however, no evidence has been provided or obtained by MPCA staff that would indicate that the proposed Project may have the potential for significant impacts related to traffic. The proposer is required to follow the applicable state and local requirements for the hauling of manure including weight restrictions, spill prevention, mitigation, and cleanup where applicable.
39. The petitioners expressed concern related to an uncovered lagoon of liquid waste failing or running over if not maintained properly or during heavy rainfall.
40. The proposer must follow the design, operation, and maintenance requirements for manure storage basins as specified by existing federal and state feedlot requirements. These standards and requirements were established to prevent potential impacts of the proposed Project related to manure storage.

#### **CONCLUSIONS OF LAW**

41. Pursuant to Minn. R. 4410.1100, subp. 5, the MPCA was designated the RGU to act on the petition requesting the preparation of an EAW on the proposed Project.
42. Minn. R. 4410.1100, subp. 6 requires the RGU to order the preparation of an EAW if the evidence presented by petitioners, proposers, and other persons demonstrates that, because of the nature or location of the proposed project, it may have the potential for significant environmental effects.
43. Based on the nature and location of the proposed Project and the associated impacts, the MPCA concludes the proposed Curtis Blair Farm Expansion may have the potential for significant environmental effects on air quality, at the property boundary, and in cumulative air effects.
44. It is, therefore, appropriate that an EAW be prepared on the Curtis Blair Farm Expansion, Section 23, Township 126 North, Range 38 West, Pope County, Minnesota. The petition should be granted and the preparation of an EAW should be ordered.
45. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

On the Need to Prepare an Environmental Assessment Worksheet  
Curtis Blair Farm Expansion  
Reno Township, Pope County, Minnesota

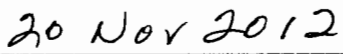
Findings of Fact  
Conclusions of Law  
And Order

**ORDER**

The Minnesota Pollution Control Agency hereby grants the petition requesting the preparation of an Environmental Assessment Worksheet on the proposed Curtis Blair Farm Expansion, in accordance with Minn. R. 4410.1200-4410.1700.

**IT IS SO ORDERED**

  
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John Linc Stine, Commissioner  
Minnesota Pollution Control Agency

  
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Date