



**Minnesota Pollution
Control Agency**

520 Lafayette Road North
St. Paul, MN 55155-4194

Public Notice of Intent to Modify

Coverage under the State of Minnesota
General Livestock Production Permit NPDES/SDS Permit
for a Concentrated Animal Feeding Operation
Permit Number MNG440000

Doc Type: Public Notice

Facility Specific Information

Public comment period begins: May 30, 2012

Public comment period ends: June 29, 2012

Current coverage issued: February 1, 2011

Current permit expiration: January 31, 2016

Name and address of Permittee:

Jerry Brake
13213 Edwards Avenue
Wilmont, Minnesota 56185

Facility name and location:

Brake Beefyards, LP
13213 Edwards Avenue
Wilmont, Minnesota 56185
NE ¼ of the NE ¼ of Section 21, T104N, R42W
Wilmont Township, Nobles County, Minnesota

Watershed/Basin: Des Moines Headwaters and Rock River

Description of permitted facility:

The facility is currently permitted for 2,700 head of beef finishing cattle for a total of 2,700 animal units housed in existing open lots with runoff controls. The Facility has proposed to modify the permitted capacity of the existing open lots from beef finishing cattle to beef feeder (backgrounding) cattle and proposed to construct a new total confinement barn with a below-barn reinforced poured concrete pit to house the beef finishing cattle.

Following the proposed construction and expansion, the facility will be permitted for 2,000 head of beef finishing cattle (2,000 animal units) and 2,040 head of beef feeder cattle (1,428 animal units) for a total of 3,428 animal units. The beef finishing cattle will be housed in the proposed total confinement barn. The beef feeder cattle will be housed in the existing open lots with runoff controls. Liquid manure generated at the facility will be stored in the proposed reinforced poured concrete pit located beneath the proposed total confinement barn. Solid manure generated at the facility will be stored in manure packs located with the existing open lots with runoff controls and temporary manure stockpiles located in the crop fields until land application. Runoff generated as a result of precipitation on the feed storage area and existing open lots is collected and managed with two existing earthen-lined runoff collection basins. This is a modification of the facility's existing permit and manure management plan that includes the proposed construction and expansion.

The facility has proposed to increase the permitted capacity by 728 animal units.

Preliminary Determination to Issue Coverage

The Minnesota Pollution Control Agency (MPCA) Commissioner has made a preliminary determination to modify coverage to this facility until the expiration of the General Livestock Production Permit on January 31, 2016.

If you have questions about the Commissioner's preliminary determination, please contact the staff person listed at the end of this notice.

A General Livestock Production Permit can be viewed at <http://www.pca.state.mn.us/hot/feedlot-forms.html#2011permit>.

Written Comments

You may submit written comments on the conditions of the Commissioner's preliminary determination.

Written comments must include the following:

1. A statement of your interest in the permit application or the preliminary determination.
2. A statement of the action you wish the MPCA to take.
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position.

Petition for Public Informational Meeting

You also may request that the MPCA Commissioner hold a public informational meeting. A public informational meeting is an informal meeting that the MPCA may hold to solicit public comment and statements on matters before the MPCA, and to help clarify and resolve issues.

A petition requesting a public informational meeting must include the following information:

1. A statement identifying the matter of concern.
2. The information required under items 1 through 3 of "Written Comments" identified above.
3. A statement of the reasons the MPCA should hold a public informational meeting.
4. The issues that you would like the MPCA to address at the public informational meeting.

Petition for Contested Case Hearing

You also may submit a petition for a contested case hearing. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with Minn. R. 7000.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that: (1) there is a material issue of fact in dispute concerning the application; (2) the MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and (3) there is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the preliminary determination. A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision.

A petition for a contested case hearing must include the following information:

1. A statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in Minn. R. 7000.1900, as discussed above.
2. A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

In addition and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing.
2. A proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing.
3. An estimate of time required for you to present the matter at a contested case hearing.

MPCA Decision

You may submit a petition to the Commissioner requesting that the MPCA Citizens' Board (Board) consider the preliminary determination. To be considered timely, the petition must be received by the MPCA by 4:30 p.m. on the date the public comment period ends, identified on page 1 of this notice. Under the provisions of Minn. Stat. § 116.02, subd. 6(4), the decision whether to issue the permit coverage and, if so, under what terms will be presented to the Board for decision if: (1) the Commissioner grants the petition requesting the matter be presented to the Board; (2) one or more Board members request to hear the matter before the time the Commissioner makes a final decision on permit coverage; or (3) a timely request for a contested case hearing is pending. You may participate in the activities of the Board as provided in Minn. R. 7000.0650.

The written comments, requests, and petitions submitted on or before the last day of the public comment period will be considered in the final decision on permit coverage. If the MPCA does not receive written comments, requests, or petitions during the public comment period, the MPCA staff as authorized by the Board, will make the final decision on permit coverage.

Comments, petitions, and/or requests must be submitted in writing on or before the end date of the public comment period identified on page 1 of this notice to:

Brent Riess
Minnesota Pollution Control Agency
504 Fairgrounds Road, Suite 200
Marshall, Minnesota 56258
507-476-4268 or brent.riess@state.mn.us