

August 15, 2019

TO: INTERESTED PARTIES

RE: Matt and Bruce Foels

The Minnesota Pollution Control Agency (MPCA) has approved the Findings of Fact, Conclusions of Law, and Order for a Negative Declaration on the need for an Environmental Impact Statement on the Matt and Bruce Foels project. The Findings of Fact, Conclusions of Law, and Order document concludes that this project does not have the potential for significant environmental effects. The decision for a Negative Declaration completes the state environmental review process under the revised Environmental Quality Board rules, Minn. R. ch. 4410. Final governmental decisions on the granting of permits or approvals for the project may now be made.

These documents can be reviewed at the following locations: the MPCA offices in St. Paul; the Minneapolis Public Library at 300 Nicollet Mall, Minneapolis; and the Blue Earth County Library at 100 E. Main Street, Mankato. The document can be viewed on our MPCA website at www.pca.state.mn.us/eaw. Requests for copies of these documents may be made by contacting the St. Paul office at 651-757-2100.

We want to express our appreciation for comments submitted on the Environmental Assessment Worksheet. Comments and responses to them have been incorporated into the Findings of Fact, Conclusions of Law, and Order and have been considered by MPCA staff during the permit process for the proposed project.

Sincerely,



Dan R. Card, P.E.
Supervisor, Environmental Review Unit
St. Paul Office
Resource Management and Assistance Division

DRC:bt

**STATE OF MINNESOTA
MINNESOTA POLLUTION CONTROL AGENCY**

**IN THE MATTER OF THE DECISION
ON THE NEED FOR AN ENVIRONMENTAL
IMPACT STATEMENT FOR THE PROPOSED
MATT AND BRUCE FOELS PROJECT
ST. MARY'S TOWNSHIP
WASECA COUNTY, MINNESOTA**

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

Pursuant to Minn. ch. 4410, the Minnesota Pollution Control Agency (MPCA) staff prepared and distributed an Environmental Assessment Worksheet (EAW) for the proposed Matt and Bruce Foels Project. Based on the MPCA staff environmental review, the EAW, comments and information received during the comment period, and other information in the record of the MPCA, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

Project Description

1. Matt and Bruce Foels (Foels) proposes to construct and operate a new 1,440 animal unit (AU) swine feedlot in the SE1/4 of SW1/4 of Section 2 and the NE1/4 of NW1/4 of Section 11 in St. Mary's Township, Waseca County (Project).
2. The Project consists of constructing the following items:
 - Two 197 x 102 foot total confinement swine finishing barns with 8 foot deep, below ground, reinforced concrete liquid manure storage areas (LMSA)
 - One 16 x 44 foot animal compost facility
 - One 2.5 acre wet stormwater detention pond
 - One well utilizing 1.8 million gallons of water per year for livestock watering and employee domestic use
3. Foels plans to start and complete construction of the feedlot in the fall of 2019.
4. Foels' actual construction dates are dependent on completion of the environmental review process, issuance of the Minnesota Department of Natural Resources (DNR) Water Appropriation Permit and the State of Minnesota General Animal Feedlot National Pollutant Discharge Elimination System (NPDES) Permit (Feedlot Permit) from the MPCA.
5. The Project will generate approximately 1.89 million gallons of manure annually.
6. Each year, 477 acres of fields are available for manure application.
7. Foels either owns, rents, or has secured the land under a manure agreement.

8. Foels will hire a licensed Commercial Animal Waste Technician (CAWT) who will transfer the manure from Foels' two barns to Foels' manure application sites. The CAWT will land apply manure to cropland according to Foels' MPCA approved manure management plan (MMP).
9. Foels applied for coverage under the Feedlot Permit (MNG442051) on April 19, 2019.

Environmental Review of Project

10. An EAW is a brief document designed to provide the basic facts necessary for the Responsible Governmental Unit (RGU) to determine whether an Environmental Impact Statement (EIS) is required for a proposed project or to initiate the scoping process for an EIS (Minn. R. 4410.0200, subp. 24). The MPCA is the RGU for this Project.
11. Minn. R. 4410.4300, subp. 29(A) requires MPCA to prepare an EAW for the Project because it is the construction of an animal feedlot facility with a capacity of 1,000 AUs or more.
12. Foels submitted a draft EAW submittal for the Project on April 5, 2019.
13. The MPCA provided public notice of the Project as follows:
 - a. The Environmental Quality Board (EQB) published the notice of availability of the EAW for public comment in the *EQB Monitor* on June 17, 2019, as required by Minn. R. 4410.1500.
 - b. The EAW was available for review on the MPCA website at <http://pca.state.mn.us/news/eaw/index.html>.
 - c. The MPCA provided a news release to media in southern Minnesota, and other interested parties, on June 17, 2019.
 - d. Foels' application for permit coverage under the Feedlot Permit was open for public comment from June 17, 2019, through July 17, 2019.
14. During the 30-day comment period ending on July 17, 2019, on the EAW and Foels' application for coverage under the Feedlot Permit, the MPCA received comments from the Minnesota Historical Society, the Minnesota Department of Transportation, and a comment letter from a citizen.
15. The list of comment letters received during the 30-day public comment period are included as Appendix A to these Findings.
16. The MPCA prepared written responses to the comments received during the 30-day public comment period. These responses are included as Appendix B to these Findings.

Criteria for Determining the Potential for Significant Environmental Effects

17. The MPCA shall base its decision on the need for an EIS on the information gathered during the EAW process and the comments received on the EAW (Minn. R. 4410.1700, subp. 3). The MPCA must order an EIS for projects that have the potential for significant environmental effects (Minn. R. 4410.1700, subp. 1). In deciding whether a project has the potential for significant environmental effects, the MPCA must compare the impacts that may be reasonably expected to occur from the Project with the criteria set forth in Minn. R. 4410.1700, subp. 7. These criteria are:

- 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.
- 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 proposer, including other EISs.

**The MPCA Findings with Respect to Each of These Criteria
Are Set Forth Below**

Type, Extent, and Reversibility of Environmental Effects

18. The first criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is the "type, extent, and reversibility of environmental effects" Minn. R. 4410.1700, subp. 7. A. The MPCA Findings with respect to this criterion are set forth below.
19. The types of impacts that are reasonably expected to occur from the Project include the following:
 - Surface water and groundwater quality
 - Groundwater appropriation
 - Air quality impacts related to hydrogen sulfide, ammonia, and odor emissions
20. Written comments received during the EAW comment period raised additional issues, as follows:
 - Air transportation
21. With respect to the extent and reversibility of impacts that are reasonably expected to occur from the Project, the MPCA makes the following findings.

Surface Water and Groundwater Quality

22. The Feedlot Permit, Section 3.7 requires Foels to develop and maintain on-site a Stormwater Pollution Prevention Plan that includes erosion prevention and sediment control best management practices (BMPs) for the construction and operation of the Project. The EAW outlines all construction and operational BMPs Foels will use to comply with this Feedlot Permit requirement.
23. The Project will include more than 1 acre of new impervious surface; therefore, Foels is required by the Feedlot Permit to install permanent stormwater treatment. Foels will install one wet

stormwater detention pond on the Project site designed to retain and infiltrate a water volume of 1 inch of runoff from the new impervious surface.

24. The EAW outlines construction and operational best management practices (BMPs) Foels will use to comply with the discharge standards of Minn. R. pt. 7020.2003 and the Feedlot Permit, Section 10. This includes the requirement to manage the Project operation to contain all contaminated runoff and the direct precipitation up to the volume from a 25-year 24-hour storm event.
25. Minn. R. 7020.2015 and the Feedlot Permit, Section 10, requires that all animals at the feedlot have no direct access to surface waters.
26. Foels must store the liquid manure in a structure that meets the design criteria of Minn. R. 7020.2100. Additionally, a Minnesota registered professional engineer is required to design and oversee construction of liquid manure storage structures.
27. As required by Minn. R. 7020.2100, Foels will install a perimeter drain tile around the LMSAs in order to protect the liner of the structure from impacts due to water table fluctuation. The perimeter tile system is required to have access for visual observation to ensure the storage system is functioning properly.
28. Minn. R. 7020.2225 and section 4 of the Feedlot Permit, require that Foels manage all manure in accordance with its MPCA-approved MMP. The MMP describes how manure generated at the feedlot is land applied in a way that maximizes the benefits to cropland, meets all rules and regulations, and protects surface water and groundwater quality.
29. Minnesota's "Final Animal Agriculture Generic Environmental Impact Statement" (2002) and the University of Minnesota Agriculture Extension Program state that manure not only supplies nutrients, but can also improve the biological and physical properties of soil, making it more productive and less erosive. Manure provides valuable organic matter to soil that improves soil tilth, aids in the retention of water and nutrients, and promotes growth of beneficial microorganisms. Manure, when properly used as part of a soil management program, improves soil quality, builds soil structure, and increases the level of soil organic matter. Commercial fertilizers cannot provide these same improvements to soil properties.
30. All intensively farmed cropland in Minnesota receives applications of nutrients to promote crop growth. The addition of nutrients from any source, including manure, to the environment creates a potential for environmental impacts when that application is not performed responsibly. The MMP for the project requires the Proposer or CAWT to apply manure in accordance with the Feedlot Permit and Minn. R. 7020.2225.
31. In order to minimize the potential for nitrate leaching into the groundwater at the manure application sites, Foels will apply the manure at nitrogen based agronomic rates for the type of crop grown. Farmers must account for nitrogen contributions from all sources, including commercial fertilizers, when determining the application rate of manure. The total of nitrogen from all sources cannot exceed the agronomic needs of the crop.

32. In order to minimize impacts from surface runoff at the manure application sites, all manure application is required to observe setbacks to waters, open tile intakes, sinkholes, mines, quarries, and wells as required in Minn. R. 7020.2225 and the Feedlot Permit. Where a county also has setback requirements, application of manure must follow the most restrictive of the state or county setback requirements.
33. The Feedlot Permit requires transport of manure in a manner to prevent it from leaking or spilling on to public roadways. If manure leakage or spillage does occur, Foels will clean it up and land apply it in accordance with Minn. R. 7020.2010 and the Feedlot Permit.
34. Foels has identified 477 acres of cropland available for manure application. Based upon the approved MMP, this is adequate for land application of the manure at agronomic rates.
35. According to the MMP for the Project, Foels will inject or incorporate manure within 24 hours, which further limits potential impacts due to runoff from the land application sites. This also limits the potential for bacterial transport from the manure application sites to waters.
36. When a CAWT is hired to spread the manure, they must keep records of the quantity and nutrient content of the manure delivered as well as the location and rate of application.
37. Foels must keep records of manure application activities for the 6 most recent years. The records must include the amount and nutrient content of manure, location where the manure is applied, and the rate of application.
38. The MPCA finds that when Foels applies manure in accordance with the MMP required by the Feedlot Permit, the amount of nutrients in stormwater runoff from the fields used for manure application will be similar to the existing conditions resulting from nutrient application via commercial fertilizer.
39. The MPCA finds that the measures specified above will prevent or mitigate potential water quality impacts.
40. Although the MPCA does not reasonably expect significant adverse impacts to water quality, if these were to occur, Foels must modify the operation and management of the Project. If land application practices under the MPCA-approved MMP are found to cause pollution of waters, the MPCA may require revisions to the MMP to address any causative factors that led to the pollution in accordance with Minn. R. 7020.2225. A revised MMP, once approved by the MPCA, is an enforceable part of the Feedlot Permit.
41. Although the MPCA does not expect significant adverse impacts to water quality, if these were to occur, Foels must modify the operation and management of the Project. The MPCA would then modify the Feedlot Permit and the MMP, therefore reversing impacts to waters.
42. The MPCA finds that information presented in the EAW and other information in the environmental review record are adequate to assess potential impacts to the quality of surface water and groundwater that are reasonably expected to occur from the Project.

43. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent and reversibility of impacts related to surface water and groundwater quality, which are reasonably expected to occur.

Groundwater Appropriation

44. There is one well currently located on the Project site. Foels will hire a Minnesota Department of Health (MDH) licensed well contractor to properly abandon and seal this well in accordance with Minn. Stat. 103I.31.
45. Foels applied to the DNR for preliminary approval to drill a well that will pump at 20 gallons per minute. The DNR granted preliminary approval to drill the well on January 31, 2019. Foels may use the DNR preliminary approval in deciding whether to proceed in constructing a well. The approval to drill a well is not an approval to use or pump the well. To use the well, Foels must obtain a DNR Water Appropriation Permit. State law requires this permit for users withdrawing more than 10,000 gallons of water daily, or 1 million gallons annually.
46. Foels expects to use approximately 1.8 million gallons of water annually, for a total consumption of 44.2 million gallons over 25 years.
47. The DNR is the permitting authority (Water Appropriation Permit) for appropriating waters of the state in Minnesota. The purpose of the Water Appropriation Permit is to ensure water resources are managed so that adequate supply is available for long-range seasonal requirements for domestic, agricultural, fish and wildlife, recreational, power energy, navigational, and water quality. The DNR Water Appropriations Permit allows for a reasonable use of water if the use does not negatively impact surrounding wells or other water resources.
48. The DNR Water Appropriation Permit balances competing management objectives, including both the development and protection of water resources. Minn. Stat. § 103G.261 establishes domestic water use as the highest priority of the State's water when supplies are limited. If a well interference arises, the DNR has a standard procedure for investigating the matter. If the DNR finds a commercial operator is causing interference, the operator must correct it.
49. Unauthorized pumping or use of the well or other water resources without a DNR Water Appropriation Permit is subject to enforcement under Minn. Stat. § 103. Upon completion of an investigation, the DNR may limit, amend, or deny a permit for water appropriation in accordance with applicable laws and rules for the protection of the public interests and the sustainability of Minnesota's water resources.
50. If the DNR determines there may be the potential for impacts to resources such as trout waters, Wetland Conservation Act wetlands, public watercourses, rare species, sites of outstanding biodiversity, wellhead protection areas, and/or wildlife management areas, the DNR has the authority to require additional testing and monitoring for those impacts.
51. Due to the DNR oversight and permitting of water appropriations, the MPCA does not expect significant adverse impacts to water appropriation. However, if the DNR determines there is well

interference based on concerns or well interference claims, the operator must fix the causes of the interference. Thus, the impacts to water appropriations would then be reversed. The MPCA finds that any water appropriation impacts that may occur from the Project are reversible.

52. The MPCA finds that the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts related to water appropriations that are reasonably expected to occur.

Air Quality

53. Foels conducted air dispersion modeling in February 2019 to estimate the atmospheric concentrations of hydrogen sulfide, ammonia, and the intensity of odorous gases at the Project property lines and nearest neighbors. The MPCA environmental review air modeling staff reviewed and approved the modeling protocols and reports for the Project.
54. Foels air modeling used the American Meteorological Society Regulatory Model (AERMOD) developed by the American Meteorological Society and the U.S. Environmental Protection Agency. The model evaluated the air quality impacts of the Project. AERMOD is a widely accepted air dispersion model, which uses conservative assumptions to predict air quality. AERMOD includes conservative assumptions, which means that the model results are conservative predictions of future performance. The model evaluated the air quality impacts of the Project.

Air Quality Related to Hydrogen Sulfide Emissions

Minnesota Ambient Air Quality Standards (MAAQS)

55. The air modeling predicts that the Project will comply with the 30 parts per billion (ppb) hydrogen sulfide MAAQS. Under the MAAQS, the third exceedance of the MAAQS within any 5-day period is a violation. The air modeling demonstrates compliance when the high-third-high (H3H) hydrogen sulfide concentration (added to background concentration) for any 5-day period at each property-line receptor is less than 30 ppb.
56. The air modeling predicts that the Project emissions alone will result in a maximum H3H property-line hydrogen sulfide concentration of 5.4 ppb. The estimated ambient air concentration for hydrogen sulfide in the Project area is 17 ppb. The total (Project emissions plus existing background) H3H hydrogen sulfide concentration is predicted to be 22.4 ppb at the Project's property lines.

Sub-Chronic Inhalation Health Risk Value (iHRV)

57. The air modeling predicts that the Project will not exceed the 10 $\mu\text{g}/\text{m}^3$ subchronic (13-week) hydrogen sulfide iHRV at neighboring residences. iHRVs are concentrations of chemicals emitted to air that are unlikely to pose a significant risk of harmful effects when humans are exposed to those concentrations over a specified period.
58. The air modeling predicts that the Project emissions alone will result in a maximum monthly hydrogen sulfide concentration of 1.5 $\mu\text{g}/\text{m}^3$ at the nearest residences. The estimated hydrogen

sulfide background concentration in the Project area is $1.0 \mu\text{g}/\text{m}^3$. The predicted total maximum monthly hydrogen sulfide concentration at the neighboring residences is $2.5 \mu\text{g}/\text{m}^3$. Note that while the iHRV is for a 13-week period, AERMOD is not capable of averaging concentrations for that time-period, so AERMOD uses a monthly averaging period instead. The monthly averaging period is acceptable because it produces a more conservative or protective prediction than the 13-week period.

59. Based on the air modeling results discussed above, the MPCA finds that hydrogen sulfide emissions expected from the Project are not expected to cause exceedances of the subchronic hydrogen sulfide ambient air quality standard or exceedances of the subchronic hydrogen sulfide iHRV and do not present the potential for significant effects. The MPCA expects the Project to comply with the applicable air quality standards and iHRVs for hydrogen sulfide.

Air Quality Related to Ammonia Emissions

Acute iHRV

60. The air modeling predicts that the Project will not exceed the $3,200 \mu\text{g}/\text{m}^3$ (one-hour) acute ammonia iHRV at neighboring residences.
61. The air modeling predicts that the Project emissions alone will result in a maximum hourly ammonia concentration of $183 \mu\text{g}/\text{m}^3$ at the nearest residences to the Project site. The estimated ammonia background concentration in the Project area is $148 \mu\text{g}/\text{m}^3$. The maximum total (Project emissions plus existing background) ammonia concentration is predicted to be $331 \mu\text{g}/\text{m}^3$ at the nearest residences.

Chronic iHRV

62. The air modeling predicts that the Project will not exceed the $80 \mu\text{g}/\text{m}^3$ (1-year) chronic ammonia iHRV at neighboring residences to the Project site.
63. The air modeling predicts that the Project emissions alone will result in a maximum 1-year time averaged ammonia concentration of $8.59 \mu\text{g}/\text{m}^3$ at the neighboring residences. The estimated ammonia background concentration in the Project area is $5.72 \mu\text{g}/\text{m}^3$. The maximum total (Project emissions plus existing background) ammonia concentration is predicted to be $14.31 \mu\text{g}/\text{m}^3$ at the nearest residences.
64. Based on the air modeling results discussed above, the MPCA finds that ammonia emissions expected from the Project are not expected to cause exceedances of the iHRV for ammonia and do not present the potential for significant environmental effects.

Air Quality Related to Odor Emissions

65. Although the state of Minnesota has not established ambient air quality standards to regulate odor, Foels completed air dispersion modeling for odor.

66. The modeled maximum hourly odor intensity, at the Project's property lines, is 24 odor units per cubic meter (OU/m³) and occurs on the north boundary line. The air modeling report does not predict an odor intensity for this Project.
67. The modeled maximum hourly odor intensity, at the nearest residences, is 37 OU/m³. This predicted odor intensity is considered a very faint odor. This information is based on past meteorological data and is not a guarantee of future meteorological conditions.
68. Foels has submitted an air emissions and odor management plan to the MPCA with its Feedlot Permit application. The plan includes measures that Foels will take to minimize the generation of odors from its proposed feedlot and from associated manure application activities. Foels will use below ground manure storage pits and inject manure into the soil within 24 hours of land application to minimize odors.
69. Although there will be odors, because manure is a source of odor, the total confinement facility design will also help to mitigate odors by limiting exposure to the atmosphere. To prevent composting odors, Foels must also follow Minnesota Department of Agriculture and Minnesota Board of Animal Health construction and management requirements/guidelines for animal composting.
70. Based on the modeling results discussed above, the MPCA finds that odor at Foels' property lines and nearby residences does not present the potential for significant environmental effects.

Summary of Air Quality Impacts

71. The MPCA expects the Project to meet applicable air quality standards and criteria.
72. With respect to the reversibility of air quality impacts expected to occur from the Project, air emissions from the Project will continue while it remains in operation and would cease only if the Project were temporarily or permanently closed. Therefore, the MPCA finds any air quality impacts that may occur from the Project are reversible.
73. If excessive air emissions or violations of the ambient hydrogen sulfide air standards were to occur, or if Foels exceeded iHRVs for ammonia, air quality impacts are likely to be correctable. The MPCA could initiate an investigation and require Foels to make operation and maintenance changes to reduce or mitigate impacts. Therefore, the MPCA finds that any impacts on air quality that may occur from the Project are reversible.
74. The MPCA finds that information presented in the EAW and other information in the environmental review record are adequate to assess the impacts on air quality that are reasonably expected to occur because of the Project.
75. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts on air quality reasonably expected to occur from the Project. Foels has methods to prevent significant adverse impacts for air quality.

Liquid Manure Storage Areas

76. The Project will generate approximately 1.89 million gallons of manure, manure contaminated runoff, process wastewater, and feedpad runoff annually. The Project's LMSAs will have the capacity to store 1.9 million gallons, providing over 1 year of storage capacity.
77. Foels will construct reinforced concrete LMSAs at the Project that meets the design criteria of Minn. R. 7020.2100.
78. Foels will install perimeter drain tiles around the base of the LMSAs to help control potential hydrostatic pressure on the LMSA walls and floor. Perimeter-tile inspection ports will allow Foels to observe if the tiles are operational.
79. Foels has an MPCA-approved emergency management plan (EMP). The EMP includes actions Foels will take if the LMSAs leak or fail. The EMP requires Foels to immediately stop the source of the liquid manure leak or spill. The EMP also includes utilizing the following measures where appropriate: installation of bale checks, blockage of downstream culverts, plugging tile intakes, tilling ground ahead of the spill, and use of absorptive materials.
80. Based on the proposed design of the LMSAs and on the measures in Foels' EMP, the MPCA finds that the LMSAs do not present the potential for significant adverse environmental impacts.

Land Application of Manure

81. As stated in the MMP, Foels will apply all manure generated from the Project on fields it owns or controls. The MDA regulates and is responsible for providing licenses to CAWTs.
82. Foels and the CAWT must adhere to state rules on setbacks, rates, recordkeeping, and other requirements for land application of manure in Minn. R. ch. 7020.
83. Foels and the CAWT must apply manure in accordance with the Feedlot Permit, the MMP, and Minn. R. 7020.2225. Minn. R. 7020.2225 includes the following application requirements for special protection areas:
 - Prohibition on manure application on frozen soils unless approved by the MPCA
 - Comply with the land application setback requirements for lakes and streams, with separate setbacks for vegetated buffers or inadequate vegetated buffers
 - Comply with the land application setback requirements for intermittent streams, DNR-protection wetlands, and drainage ditches without quarries, with separate setbacks for vegetated buffers or inadequately vegetated buffers
 - Comply with the land application setback requirements for open tile intakes, with the same setbacks for vegetated buffers or inadequate vegetated buffers
 - Comply with the land application setback requirements for well, mines, or quarries, with the same setbacks for vegetated buffers or inadequate vegetated buffers
 - Comply with land application setback requirements for sinkholes with no diversions, with the same setbacks for vegetated buffers or inadequate vegetated buffers

84. Foels must follow MPCA or county setback requirements, whichever are more restrictive, for the land application of manure from the Project. These requirements prevent impacts to surface waters, groundwater, and public water systems.
85. As stated in the MMP, Foels will ensure manure from the Project is incorporated by either immediately knife injecting the manure into the soil, or land applying the manure and incorporating it within 24 hours or prior to rainfall. Incorporating manure immediately into the soil minimizes the potential for indirect or direct impacts to surface waters from precipitation-induced runoff. It also minimizes the potential for indirect or direct impact to groundwater. Manure application also helps build soil tilth, which may reduce the volume of runoff or infiltration into the soil, compared to commercial fertilizers.
86. Foels has included additional information and mapping in the MMP, identifying additional areas to avoid the land application of manure, including implementing additional BMPs.
87. Minn. R. 7020.2225, the Feedlot Permit, and Foels' MMP requires Foels to keep records and only apply manure at the manure application sites for the Project at agronomic rates based on the type of crop grown, the soil type, and the soil chemistry. These requirements minimize the potential for nitrate and bacteria leaching into the groundwater.
88. The MPCA does not expect land application of manure from the Project to cause significant adverse environmental impacts. However, in terms of reversibility, land application of manure will continue annually in the fall while the Project is in operation and would cease only if Foels temporarily or permanently closed the Project.
89. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects to surface water, groundwater, or drinking water wells, based on the type, extent, and reversibility of impacts reasonably expected to occur from land application of manure from the Project.

Public Comments on Impacts Related to Air Transportation

90. The Project site is in Waseca County on land that is zoned agricultural and rural in nature. The Project is approximately 6,198 feet northwest of the nearest runway of the Waseca Municipal Airport. The tallest building structure at the Project site is 24 feet. The highest elevation above mean sea level at the Project site is 1,157 feet. Therefore, at 1,181 feet, the highest point at the Project site is 1,181 feet, which is below the 1,226 feet set in code.
91. The MPCA finds that information presented in the EAW and other information in the environmental review record are adequate to assess the impacts on land use that are reasonably expected to occur because of the Project.
92. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts on air transportation reasonably expected to occur from the Project.

Cumulative Potential Effects

93. The second criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is the "cumulative potential effects." In making this determination, the MPCA must consider "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 effects; and the efforts of the proposer to minimize the contributions from the project." Minn. R. 4410.1700 subp.7.b. The MPCA Findings with respect to this criterion are set forth below.
94. The EAW, public comments, and MPCA follow-up evaluation did not disclose any related or anticipated future projects that may interact with this Project in such a way as to result in significant cumulative potential environmental effects.
95. The EAW addressed the following areas for cumulative potential effects for the proposed Project:
- Surface water and groundwater quality
 - Groundwater appropriation
 - Air quality
 - Air transportation

Surface Water and Groundwater Quality

96. The Project and its associated manure application sites are within the Le Sueur River Major Watershed and the Cannon River Major Watershed. There are MPCA-approved Watershed Restoration and Protection Strategies in place for both of these watersheds.
97. The Project and its manure application sites are in areas where the land use is predominantly agricultural.
98. Waterville Creek, Whitewater Creek, Loon Lake, and Toner's Lake are the closest listed impaired water bodies to the Project and its manure application sites.
99. Waterville Creek, Whitewater Creek, Loon Lake, and Toner's Lake are all within the Cannon River Major Watershed. Waterville Creek is approximately 0.95 miles north of Foels' manure application sites 1 and 2, and 1.2 miles north of manure application site 3. Whitewater Creek is approximately 1.5 mile north of Foels' manure application site 1. Loon Lake is approximately 1.3 miles southeast of manure application site 11, and 1.82 miles from the Project. Toner's Lake is 1.95 miles northwest of manure application site 4.
100. Clear Lake and Iosco Creek are both within the Le Sueur River Major Watershed. Clear Lake is 1.3 miles east of manure application site 11. Iosco Creek reach 07020011-575 is near manure application sites 4 and 5. A tributary of Iosco Creek reach 07020011-576 is near manure application sites 4 and 5

101. The MPCA's 2016 impaired waters list identifies all of these creeks as impaired due to fecal coliform (i.e., E. coli bacteria). The MPCA's 2016 impaired waters list identifies Loon Lake as being impaired for phosphorus and mercury. Toner's Lake is listed as being impaired for phosphorus. Iosco Creek and its tributary have biological impairments; both reaches lead to Elysian Lake that is impaired for nutrients. The lake and creeks are included in the August 2015 Le Sueur River Watershed Total Maximum Daily Load Report¹ and the October 2016 Cannon River Watershed Total Maximum Daily Load Report². The total maximum daily load (TMDL) identifies livestock manure as a potential substantial source of fecal coliform contamination to both the Le Sueur River Major Watershed and the Cannon River Major Watershed.
102. Foels will implement BMPs through their MPCA-approved MMP, an enforceable part of the Feedlot Permit. In addition, Foels will take the following actions to minimize impacts to surface water:
 - Test soil and apply manure at agronomic rates.
 - Comply with state and county required manure application setbacks.
 - If a manure spill occurs, comply with the EMP in the Feedlot Permit.
 - Design and build the Project as a total confinement operation and check drain tile periodically for pit leaks.
103. Foels will design and build the Project as a total confinement operation. This limits the potential for precipitation coming in contact with the animals or manure generated at the Project and creating contaminated runoff.
104. All manure is stored within storage structures approved by the MPCA and meets the design requirements of Minn. R. ch. 7020, which limits the potential for impacts to surface or groundwater quality. Foels is required to examine any LMSA drain tile outlet monthly for water flow and signs of discoloration or odor in any water in the drain tile.
105. Minn. R. 7020.2003 and the Feedlot Permit prohibits discharge of manure, manure contaminated runoff, or process wastewater from the production area to waters of the state, except when authorized by the Feedlot Permit as a result of extreme or chronic rainfall events. As a result, the discharge of manure or manure-contaminated runoff to waters of the state from the production area is not reasonably expected to occur.
106. All manure application must occur at agronomic rates and comply with Minn. R. ch. 7020, the Feedlot Permit and county setback requirements, as well as all other applicable federal, state, and local rules, whatever are the more restrictive.
107. Foels is required to follow the MPCA-approved MMP for land application of manure from the Project. Foels will inject or immediately incorporate the manure into the soil.

¹ MPCA Le Sueur River Watershed Total Maximum Daily Load August 2015
<https://www.pca.state.mn.us/sites/default/files/wq-iw7-39e.pdf>

² MPCA Cannon River Total Maximum Daily Load. October 2016. (Retrieved on August 7, 2017)
<https://www.pca.state.mn.us/sites/default/files/wq-iw9-19e.pdf>

108. If a manure spill occurs, Foels is required to comply with the Emergency Response Plan developed as part of the permit application process and incorporated into the Feedlot Permit. Minn. Stat. 115.061 and the Feedlot Permit require that Foels report all manure spills to the Minnesota Duty Officer and requires Foels to take immediate action to stop the discharge and recover the material.
109. Proper operation and management of the Project and adherence to appropriate manure land application practices in the MPCA-approved MMPs will prevent runoff of manure and/or manure-contaminated stormwater runoff from impacting waters of the state.
110. Since the Feedlot Permit and MMPs require preventative measures to protect surface water and groundwater quality, the MPCA does not anticipate the Project will contribute to any potential adverse effect on water quality. Therefore, the MPCA finds that the Project is not expected to contribute significantly to adverse cumulative potential effects on water quality.

Groundwater Appropriation

111. Foels applied to the DNR for preliminary approval to drill a well. The well will pump at a rate of 20 gallons per minute.
112. The DNR granted preliminary approval to drill the well on January 31, 2019. The Preliminary Well Assessment concluded that the volume of water is minimal and should not negatively impact lakes, wetlands or rare species.
113. During its Water Appropriation Permit review process, the DNR may require Foels to conduct an aquifer test. The DNR will analyze the results of the aquifer test to evaluate potential short-term impacts such as well interferences, and long-term cumulative effects. Cumulative effects is one of the considerations the DNR evaluates in the Water Appropriation Permit Program, particularly in areas of high groundwater use, such as this area.
114. If, during the Water Appropriations permitting process, the DNR finds that the Project will cause significant negative short or long-term impacts, it may require Foels to reduce the requested water appropriation level or find another source of water.
115. The MPCA finds that the Project is not expected to contribute significantly to adverse cumulative potential effect on water appropriation.

Air Quality

116. The MPCA evaluated cumulative potential effects on air quality by comparing the MAAQS for hydrogen sulfide, iHRVs for hydrogen sulfide and ammonia, and odor intensity thresholds with concentrations in the air predicted by air modeling.
117. The modeling analysis included the estimated emissions from the Project and incorporated conservative background concentrations to account for the potential impacts of air emissions from other feedlots in the area of the Project. Foels estimated air concentrations for these pollutants at the residences closest to the Project.

118. All modeled concentrations for the Project were below the health-based criteria used in the analyses. Therefore, the MPCA finds that cumulative potential effects on air quality will not be significant in the Project area, and the Project will not contribute significantly to adverse cumulative potential effects on air quality.

Air Transportation

119. The MPCA evaluated cumulative potential effects related to air transportation.
120. The Project is approximately 6,198 feet northwest of the nearest runway of the Waseca Municipal Airport. The tallest building structure at the Project site is 24 feet. The highest elevation above mean sea level at the Project site is 1,157 feet.
121. The highest point at the Project site then is 1,181 feet, which is below the 1,226 feet set in code. Therefore, the MPCA finds that cumulative potential effects on air transportation will not be significant in the Project area, and the Project will not contribute significantly to adverse cumulative potential effects on air transportation.

Cumulative Effects – Summary

122. Based on information on the Project obtained from air modeling reports and Feedlot Permit application processes, information on water quality, groundwater appropriation presented in the EAW, and consideration of potential effects due to related or anticipated future projects, the MPCA does not expect significant cumulative effects from this Project.
123. The MPCA finds the Project, as proposed, does not have the potential for significant environmental effects related to cumulative potential effects that are reasonably expected to occur.

The Extent to Which the Environmental Effects Are Subject to Mitigation by Ongoing Public Regulatory Authority

124. The third criterion that the MPCA must consider when determining if a project has the potential for significant environmental effects is "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." Minn. R. 4410.1700, subp. 7.C. The MPCA Findings with respect to this criterion are set forth below.
125. The following permits or approvals will be required for the Project:

Unit of Government	Permit or Approval Required
MPCA	Feedlot Permit (includes Construction Stormwater (CSW) and Permanent Stormwater Permit requirements)
DNR	Water Appropriation Permit
DNR	Well Construction Preliminary Assessment
MDH	Well Sealing Notification
MDH	Well Construction Notification
Waseca County	Conditional Use Permit or other land use permit

126. MPCA Feedlot Permit. The MPCA requires Foels to obtain a Feedlot Permit for the Project. The Feedlot Permit incorporates construction and operation requirements and includes operating plans that address manure management, emergency response protocols, and odor/air quality management. The attachments are an enforceable condition of the Feedlot Permit.
127. Construction Stormwater. Construction stormwater requirements are incorporated by reference into the Feedlot Permit. Owners of feedlots not seeking Feedlot Permit coverage are still required to comply with all requirements of the current MPCA construction stormwater general permit, but are not required to obtain construction stormwater permit coverage, unless the construction will disturb 5 or more acres.
128. DNR Well Construction Preliminary Assessment. Foels applied to the DNR for preliminary approval to drill a well at the Project site. The DNR granted preliminary approval to drill the well on January 31, 2019. Foels may use the DNR preliminary approval to decide whether to proceed in constructing the well. The approval to drill a well is not an approval to use or pump the well. To use the well, Foels must obtain a DNR water appropriation permit. State law requires the permit for users withdrawing more than 10,000 gallons of water daily, or 1 million gallons annually.
129. DNR Water Appropriation Permit. Foels plans to install a new well at the Project site. Foels must obtain a DNR Water Appropriation Permit modification for Project, as the Project will withdraw more than 10,000 gallons per year. Foels expects to use approximately 1.8 million gallons of water annually, for a total consumption of 44.2 million gallons over 25 years. Foels will hire a licensed well driller to install a new production well.
130. The DNR Water Appropriation Permit ensures the well user manages water resources so adequate supply is available for long-range seasonal requirements for domestic, agriculture, fish and wildlife, recreation, power, navigation, and water quality. State law establishes domestic use as the highest priority when water supplies are limited, and, when well interference occurs, the DNR follows a standardized procedure of investigation.
131. MDH Well Sealing Notification. There is one well currently at the Project site. Foels will hire an MDH licensed well contractor to properly abandon and seal this well in accordance with Minn. Stat. 103I.31.
132. MDH Well Construction Notification. Foels must submit a notification form with the appropriate fee to the MDH before drilling a water supply well. Foels must construct the well in accordance with Minn. Stat. § 1031 and Minn. R. 4725. Foels must register the well with the MDH before construction.
133. Waseca County Conditional Use Permit. Foels is required to obtain all required building and conditional use permits required by local units of government to ensure compliance with local ordinances. The Conditional Use Permit will address local zoning, environmental, regulatory, and other requirements that are needed to avoid adverse effects on adjacent land.

134. The above-listed permits include general and specific requirements for mitigation of environmental effects of the Project. The MPCA finds that the environmental effects of the Project are subject to mitigation by ongoing public regulatory authority.

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

135. The fourth criterion that the MPCA must consider is “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,” Minn. R. 4410.1700, subp. 7.D. The MPCA Findings with respect to this criterion are set forth below.
136. Although not exhaustive, the MPCA reviewed the following documents as part of the environmental impact analysis for the Proposed Project:
- Data presented in the EAW
 - Feedlot Permit application, with MMPs and attachments
 - Air Dispersion Modeling Report
 - Minnesota’s “Final Animal Agriculture Generic Environmental Impact Statement” (2002)
 - Permits and environmental review of similar projects
137. The MPCA also relies on information provided by Foels, persons commenting on the EAW, staff experience, and other available information obtained by staff.
138. The environmental effects of the Project have been addressed by the design and permit development processes, and by ensuring conformance with regional and local plans. There are no elements of the Project that pose the potential for significant environmental effects.
139. Based on the environmental review, previous environmental studies by public agencies or the Project Proposer, and staff expertise and experience on similar projects, the MPCA finds that the environmental effects of the Project that are reasonably expected to occur can be anticipated and controlled.
140. The MPCA adopts the rationale stated in the attached Responses to Comments (Appendix B) as the basis for response to any issues not specifically addressed in these Findings.

CONCLUSIONS OF LAW

141. The MPCA has jurisdiction in determining the need for an EIS for this Project. The EAW, the permit development process, and the evidence in the record are adequate to support a reasoned decision regarding the potential significant environmental effects that are reasonably expected to occur from this Project.
142. The MPCA identified areas for potential significant environmental effects. The Project design and permits ensure Foels will take appropriate mitigation measures to address significant effects. The MPCA expects the Project to comply with all environmental rules, regulations, and standards.

143. Based on a comparison of the impacts that are reasonably expected to occur from the Project with the criteria established in Minn. R. 4410.1700 subp. 7, the Project does not have the potential for significant environmental effects.
144. An EIS is not required for the proposed Matt and Bruce Foels project.
145. Any Findings that might properly be termed conclusions and any conclusions that might properly be termed Findings are hereby adopted as such.

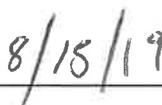
ORDER

146. The Minnesota Pollution Control Agency determines that there are no potential significant environmental effects reasonably expected to occur from the Matt and Bruce Foels project and that there is no need for an Environmental Impact Statement.

IT IS SO ORDERED



Laura Bishop, Commissioner
Minnesota Pollution Control Agency



Date

Minnesota Pollution Control Agency

**Matt and Bruce Foels
Environmental Assessment Worksheet (EAW)
LIST OF COMMENT LETTERS RECEIVED**

1. Sarah J. Beimers, Minnesota Historic Preservation Office. Letter dated July 3, 2019.
2. Renee Bjork, Brotten, Minnesota. Email dated July 11, 2019.
3. Angela Piltaver, Minnesota Department of Transportation. Email dated July 17, 2019.

July 3, 2019

Patrice Jensen
Resource Management and Assistance Div.
MPCA
520 Lafayette Rd N
St. Paul MN 55155

RE: EAW - Matt and Bruce Foels Feedlot Construction
T107 R23 S2, 11
St. Mary's Twp., Waseca County
SHPO Number: 2019-1870

Dear Patrice Jensen:

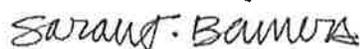
Thank you for providing this office with a copy of the Environmental Assessment Worksheet (EAW) for the above-referenced project.

Based on our review of the project information, we conclude that there are no properties listed in the National or State Registers of Historic Places, and no known or suspected archaeological properties in the area that will be affected by this project.

Please note that this comment letter does not address the requirements of Section 106 of the National Historic Preservation Act of 1966 and 36 CFR § 800. If this project is considered for federal financial assistance, or requires a federal permit or license, then review and consultation with our office will need to be initiated by the lead federal agency. Be advised that comments and recommendations provided by our office for this state-level review may differ from findings and determinations made by the federal agency as part of review and consultation under Section 106.

Please contact our Environmental Review Program at (651) 201-3285 if you have any questions regarding our review of this project.

Sincerely,



Sarah J. Beimers
Environmental Review Program Manager

From: [Renee Bjork](#)
To: [Jensen, Patrice \(MPCA\)](#)
Subject: Hog Ranch Waseca County
Date: Thursday, July 11, 2019 6:59:22 PM

How many more of these large scale factories do we actually need in the state of MN? Im not against farming. But from the research Ive been doing on factory farming I am alarmed. What is going on?? Why such large scale operations being allowed? Farm subsidies are a driving force behind these projects. This is unbalanced and unfair to local citizens. These factories produce massive waste. How much can our soils and water tables tolerate before we see catastrophic ground water contamination? This seems reckless and unfair to citizens. Why should such air pollution and barging into private citizens homes with highly offensive odor containing bacteria....often drug resistant bacteria! Be allowed. MN needs to put some limits. These factories wont be happy until they see a day when NO setback laws are on the books. Also how soon before China moves into hogging here in MN like it has in NC?

Renee Bjork
Brooten,MN

[Sent from Yahoo Mail on Android](#)

From: [Piltaver, Angela \(DOT\)](#)
To: [Jensen, Patrice \(MPCA\)](#)
Cc: mattfoels@hotmail.com; [Moynihan, Debra \(DOT\)](#); [Carr, Julie \(DOT\)](#); Brian.Zabel@co.waseca.mn.us
Subject: EAW - Matt and Bruce Foels swine facility (Waseca County)
Date: Wednesday, July 17, 2019 2:56:56 PM
Attachments: [Matt_BruceFoelsSwineFacility_map_with_airport_influence_zones.pdf](#)

Patrice,

Good afternoon. We have been in receipt of the EAW for a proposed 1,440 animal unit swine feedlot located in the SE1/4 of SW1/4 of Section 2 and the NE1/4 of NW1/4 of Section 11 in St. Mary's Township, Waseca County. Thank you for the opportunity to review the EAW.

Upon review of the project location, it was noted that the proposed facility is located on property that lies within the Airport Influence Zone of the Waseca Municipal Airport. Although the EAW does not specifically make reference to proximity to airports, it seemed prudent to request that MnDOT Office of Aeronautics provide comments.

The following are the comments received from the Office of Aeronautics:

1. From the information received (see attached map), the proposed location appears to be approximately 6,100' from runway 15 at the Waseca Municipal Airport.
2. In regard to FAA Notice of Proposed Construction or Alteration criteria, any **building** or **equipment used to construct** that building, **exceeding 44'** will **require FAA notification** using FAA Form 7460-1. For instructions on how to file and further information on penetrating airspace surfaces please refer to <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.
3. This review does not include any analysis of compliance with the Waseca Municipal Airport Zoning Ordinance. The Waseca County Planning and Zoning Administrator is the Airport Zoning Administrator.

Should you have any questions, please let me know.

Angela Piltaver, AICP, LEED AP

Senior Planner

MnDOT District 7

2151 Bassett Drive

Mankato, MN 56001-6888

507-304-6196

angela.piltaver@state.mn.us

Minnesota Pollution Control Agency

**Matt and Bruce Foels
Environmental Assessment Worksheet (EAW)**

RESPONSES TO COMMENTS ON THE EAW

1. **Comments by:** Sarah J. Beimers, Minnesota Historic Preservation Office. Letter dated July 3, 2019.

Comment 1-1: The commenter stated that based on its review of the Project information, there are no properties listed in the National or State Registers of Historic Places, and no known or suspected archaeological properties in the area that will be affected by this Project.

Response: No response necessary.

2. **Comments by:** Renee Bjork, Brooten, Minnesota. Email dated July 11, 2019.

Comment 2-1: The commenter asks how many more of these large scale factories do we actually need in the state of Minnesota. What is going on?

Response: The comment is beyond the scope of the EAW because the information on this issue would not inform a reasoned decision about the potential for or significance of the environmental effects of the Project under Minn. R. 4410.1700.

Comment 2-2: The commenter asks why such large scale operations are being allowed.

Response: The comment is beyond the scope of the EAW because the information on this issue would not inform a reasoned decision about the potential for or significance of the environmental effects of the Project under Minn. R. 4410.1700.

Comment 2-3: The commenter feels farm subsidies are a driving force behind these projects, and that this is unbalanced and unfair to local citizens.

Response: The comment is beyond the scope of the EAW because the information on this issue would not inform a reasoned decision about the potential for or significance of the environmental effects of the Project under Minn. R. 4410.1700.

Comment 2-4: The commenter stated the factories (feedlots) produce massive waste, asked how much our soils and water tables can tolerate before we see catastrophic groundwater contamination, and stated that this seems reckless and unfair to citizens.

Response: The Project will generate approximately 1.89 million gallons of manure annually. There are 477 acres of fields available for manure application. Foels will hire a licensed Commercial Animal Waste Technician (CAWT) who will transfer the manure from Foels' two barns to their manure application sites. The CAWT will land apply manure to cropland according to Foels' MPCA approved Manure Management Plan (MMP) that is part of the Feedlot Permit.

Contamination of groundwater can result from many sources. Tracing contamination to one or more specific sources (such as failed or failing septic systems, feedlots, agricultural land receiving not only manure but commercial fertilizers, biosolids, and/or industrial byproducts) is difficult.

The MPCA agrees that if there were not ongoing regulatory authority requirements in place, manure can have an impact on both ground and surface waters. However, there are a number of state and local requirements in place for the siting of feedlot facilities, liquid manure storage areas, and land application of manure. Foels is subject to these requirements. The MPCA reviewed Foels' feedlot permit application, design plans/specifications and MMP, and determined these meet the requirements of Minn. R. ch. 7020 (Feedlot rules) including the requirements of the Feedlot Permit.

Comment 2-5: The commenter wants to know why such air pollution should barge into private citizen's homes with highly offensive odor containing bacteria – often drug resistant bacteria.

Response: Bacteria can produce hydrogen sulfide, which is regulated by Minnesota. However, bacteria are not present in the odor. The state of Minnesota does not regulate odors. The MPCA includes odor in the modeling for feedlot EAWs to provide local decision makers with expected odor levels from the Project. It is up to local decision makers how they will utilize the information in their permitting process. Odor intensity was modeled as part of the Project; the results indicated the following: the modeled maximum hourly odor intensity, at the Project's property lines, is 24 odor units per cubic meter (OU/m³) and occurs on the north boundary line. The air modeling report does not predict an odor intensity for this Project. The modeled maximum hourly odor intensity, at the nearest residences, is 37 OU/m³. This predicted odor intensity is considered a very faint odor. This information is based on past meteorological data and is not a guarantee of future meteorological conditions.

Comment 2-6: The commenter feels Minnesota needs to put some limits.

Response: The comment is beyond the scope of the EAW because the information on this issue would not inform a reasoned decision about the potential for or significance of the environmental effects of the Project under Minn. R. 4410.1700.

Comment 2-7: The commenter feels the factories (feedlots) won't be happy until they see a day when no setback laws are on the books.

Response: The comment is beyond the scope of the EAW because the information on this issue would not inform a reasoned decision about the potential for or significance of the environmental effects of the Project under Minn. R. 4410.1700.

Comment 2-8: The commenter asks how soon before China moves into hogging here in Minnesota like it has in North Carolina.

Response: The comment is beyond the scope of the EAW because the information on this issue would not inform a reasoned decision about the potential for or significance of the environmental effects of the Project under Minn. R. 4410.1700.

3. Comments by: Angela Piltaver, Minnesota Department of Transportation. Email dated July 17, 2019.

Comment 3-1: The commenter stated that from the information they received, the proposed location appears to be approximately 6,100 feet from runway 15 at the Waseca Municipal Airport.

Response: The comment is noted.

Comment 3-2: The commenter stated that in regard to FAA Notice of Proposed Construction or Alteration criteria, any building or equipment used to construct that building, exceeding 44 feet will require FAA notification using FAA Form 7460-1. The commenter states that Foels can find instructions on how to file and further information on penetrating airspace surfaces at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp>.

Response: Foels will construct the barns and any supporting structures (bulk bins) no more than 24 feet at the highest point (building peak). Therefore, there is no need to fill out FAA Form 7460-1.

Comment 3-3: The commenter states that this review does not include any analysis of compliance with the Waseca Municipal Airport Zoning Ordinance. The Waseca County Planning and Zoning Administrator is the Airport Zoning Administrator.

Response: MPCA reviewed the Waseca County Unified Development Code pertaining to the airport. The highest elevation above mean sea level at the Project is 1,157 feet. The highest point of a building at the site is 24 feet. The highest point at the site will then be 1,181 feet. Therefore, the buildings are under the height limit of 1,226 feet above mean sea level stated in the code.

