

General information

Public comment period begins: January 21, 2020

Public comment period ends: March 6, 2020 (4:30 p.m.)

The Minnesota Pollution Control Agency (MPCA) is providing an additional comment period for this Notice of intent to modify permit MN0067652. Except for dates in Part 3 (Schedule of Compliance) of the permit, *the draft permit on notice at present is identical to the permit that was issued to Daley Farms of Lewiston, LLP on February 19, 2019 (2019 Permit). A draft of the 2019 Permit was noticed for public comment from October 1, 2018, through November 15, 2018. All comments received during that 2018 comment period will be included in the record for this Feedlot Permit and **do not need to be resubmitted.***

The MPCA Commissioner has made a preliminary determination to modify this permit for a term of approximately five years.

The MPCA will host a public informational meeting on February 4, 2020, from 6:30 p.m. 8:30 p.m.; regarding the supplement to the Environmental Assessment Worksheet (EAW) and the Feedlot Permit. The meeting will be at the Lewiston Community Center, 75 Rice Street, Lewiston, Minnesota 55952.

Name and address of Permittee:

Daley Farms of Lewiston LLP
18774 Highway 14
Lewiston, MN 55952-4223

Facility name and location:

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1-844-828-0942

The draft permit is available for review on the MPCA Public Notices webpage at <http://www.pca.state.mn.us/publicnotices>. Application materials are available for review on the MPCA Archived Public Notices webpage at <https://www.pca.state.mn.us/public-notices/archive/2018-10>. Additionally all materials relating to the issuance of this permit are available for inspection by appointment at any MPCA office (<https://www.pca.state.mn.us/about-mpca/mpca-offices>) between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The MPCA will mail or email a copy of the draft permit upon request. Comments, petitions, and other requests must be received at the MPCA in writing on or before the public comment period end date and time identified above.

Watershed: Mississippi River – Winona and Root River

Description of Daley Farms of Lewiston LLP, Daley Farms of Lewiston LLP 1, and Daley Farms of Lewiston LLP 7

The existing facilities are operating under an Individual National Pollutant Discharge Elimination System (NPDES) Permit. The existing facilities are composed of six total-confinement barns; two partial confinement barns; two open lot areas without runoff controls; four dual lined [earthen, concrete, high-density polyethylene (HDPE)] liquid manure storage areas (LMSAs); nine concrete lined LMSAs; one sand separation lane; one permanent manure stockpile area for separated sand; one covered feed storage area; one feed storage area with runoff collection; and one feed storage area without runoff collection. The existing facilities house 1,608 head of mature dairy cows over 1,000 pounds [2,251.2 animal units (AU)] and 120 head of dairy calves (24 AU) for a total of 2,275.2 AU.

The facilities propose and were previously permitted to install runoff containment for the two existing open lot areas without runoff controls and install an LMSA (concrete reception tank) to contain runoff from the feed storage area without runoff collection.

Additional proposed changes at the Daley Farms of Lewiston LLP facility include the construction of four total-confinement barns; four concrete lined LMSAs; one dual lined (earthen, concrete, HDPE) LMSA; one dual lined (earthen, HDPE) LMSA for collection of runoff from feed pad storage area; one permanent manure stockpile area; and increase the number of mature dairy cows over 1,000 pounds housed at the facility by 2,475 head (3,465 AU) and increase the number of dairy heifers housed at the facility by 525 head (367.5 AU).

Following the proposed construction activities and changes to animal numbers housed at the facilities, the facilities will be permitted for 4,083 head of mature dairy cows over 1,000 pounds (5,716.2 AU), 525 head of dairy heifers (367.5 AU), and 120 head of dairy calves (24 AU), for a total of 6,107.7 AU.

The preliminary determination to modify this Feedlot permit is tentative.

The MPCA previously public noticed a draft permit for the Daley Farms of Lewiston LLP application from October 1, 2018, through November 15, 2018, and accepted comments at that time. Following the 2018 comment period the MPCA responded to comments, determined the project did not require an Environmental Impact Statement (EIS) and issued the 2019 Permit.

Subsequent to the MPCA's EIS determination and issuance of the 2019 Permit, an appeal was filed challenging the MPCA's decisions on the need for an EIS and approval of the permit modification. The court held that the MPCA's determination that an EIS was not needed was arbitrary and capricious because the MPCA "failed to consider the potential effects" of greenhouse-gas (GHG) emissions. The court also invalidated the MPCA's approval of the NPDES permit modification because a determination on whether an EIS is needed must precede a decision to approve a permit modification.

As a result of the court's decision, the MPCA has prepared a supplement to the Environmental Assessment Worksheet (EAW) containing an inventory of GHG emissions for the Daley Farms project. The supplement to the EAW is being public noticed simultaneously with the Notice of intent to modify the permit. Except for dates in Part 3 (Schedule of Compliance) of the permit, the draft permit now on notice is identical to the 2019 Permit; nothing in the Daley Farms draft permit has changed as a result of the inventory of GHG emissions in the supplement to the EAW. The mitigation measures in the draft permit, which are based on requirements included in the feedlot rules found in Minn. R. ch. 7020, will reduce impacts from GHG emissions in addition to mitigating impacts from nitrogen. The best management practices that will be utilized for manure management and land application will further reduce impacts from both GHG emissions and nitrogen.

This is an additional comment period for this Notice of intent to issue a permit modification. As the inclusion of the GHG emission inventory in the supplement to the EAW is the only thing about the MPCA's review of the Daley Farms project that has changed, the MPCA invites comments on its assessment that the draft permit requires no changes based on the supplement to the EAW. All comments received during the October 1, 2018, through November 15, 2018, comment period will be included in the record for the Feedlot Permit and **do not need to be resubmitted**.

Procedure for public participation

As stated in Minn. R. chs. 7000 and 7001, there are three formal procedures for public participation in the MPCA's consideration of this matter. Interested persons may:

- (1) Submit written comments on the permit application, the draft permit and the preliminary determination to issue a permit.
- (2) Petition the MPCA to hold a public informational meeting.
- (3) Petition the MPCA to hold a contested case hearing.

Only the portions of the permit coverage that are proposed to be modified are open for comment and petition.

Submitting written comments

To submit comments or petitions to the MPCA through the mail or email, you must state:

- (1) Your interest in the permit application the draft permit and the preliminary determination to issue a permit.
- (2) The action you wish the MPCA to take, including specific references to the application materials or section of the draft permit you believe should be changed.
- (3) The reasons supporting your position, stated with sufficient specificity as to allow the MPCA to investigate the merits of the position.

Public informational meeting

A public informational meeting is an informal meeting during which interested persons can ask questions concerning the proposed facility. MPCA staff will be present to provide information. If an interested person would like the MPCA to hold a public informational meeting, the person should include all information identified above and in addition include a statement of the reasons the person desires the MPCA to hold a public informational meeting and the issues that the person would like the agency to address at the public informational meeting.

Contested Case Hearing

A contested case hearing is a formal proceeding before an administrative law judge empowered to advise the MPCA regarding issues of fact. As described in Minn. R. 7000.1800, persons who submit petitions for a contested case hearing must also state the issues they propose to address in a contested case hearing, the specific relief requested or resolution of the matter, and the reasons (which may be in the form of proposed findings) supporting an MPCA decision to hold a contested case hearing. Failure to comply with these rules exactly may result in a denial of the request. To the extent known, the petitioner may also submit a list of prospective witnesses to be called at a hearing, a proposed list of publications, references, or studies to be introduced at a hearing and the approximate time required for the petitioner to present the matter at a hearing. The decision whether to hold a contested case hearing will be made under Minn. R. 7000.1900.