

Midwest Environmental ADVOCATES

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A Summary of Significant Flaws in the Draft EIS and Draft WPDES Permit for Rosendale Dairy, Fond du Lac County, Wisconsin

INTRODUCTION

On behalf of the citizens' organization "PEPL of Rosendale," Midwest Environmental Advocates and Garvey McNeil & McGillivray, S.C. submitted detailed written comments to the Wisconsin Department of Natural Resources (DNR) addressing the numerous serious flaws contained in both the Draft Environmental Impact Statement (EIS) and Draft Wisconsin Pollutant Discharge Elimination System (WPDES) Permit for the proposed Rosendale Dairy, in Fond du Lac County, Wisconsin.

Regarding the Draft EIS, PEPL's comments make clear that the DNR failed to fully assess (or, in some cases, to even consider) many of the likely impacts the massive industrial livestock facility will have to the surrounding area's air and water resources. Of particular note are the repeated inconsistencies in the DNR's analysis concerning potential polluted runoff and groundwater contamination hazards and the near-complete failure to consider emissions of hazardous air pollutants like ammonia, hydrogen sulfide, methanol, and others.

Regarding the Draft WPDES Permit, the comments bring to the DNR's attention serious omissions from the dairy's permit application, as well as at the agency's failure to comply with the analysis required under state and federal clean water laws to "keep clean waters clean." Noting that many of the region's waters are already polluted by excess phosphorus runoff, PEPL questions how the Department can authorize the further contamination that is likely to occur if the dairy becomes fully operational.

SIGNIFICANT COMMENTS REGARDING THE DRAFT EIS

PEPL appreciates that this is the first time the DNR has prepared an EIS for an industrial livestock facility. However, the lack of a serious analysis by the Department regarding the potential air and water impacts of what may become Wisconsin's largest industrial dairy (8,300 head) reveals the extent to which the Department failed to take its legal obligations seriously. This is further demonstrated by the simultaneous release of the EIS and WPDES Permit; the information contained in the *final* EIS should inform the *drafting* of the WPDES permit.

- *Air pollution* – large industrial livestock facilities release considerable amounts of hazardous gasses such as ammonia, hydrogen sulfide, methanol, methane, volatile organic compounds, and particulate matter, and also contribute significantly to global warming. DNR failed to consider these impacts from Rosendale Dairy, and ignored the fact that the dairy will likely trigger several regulatory requirements under state and federal law to report and/or control those emissions.
- *Groundwater contamination* – despite recognizing that much of the land in the vicinity of Rosendale Dairy (including many of the 5,000+ acres upon which the dairy plans to spread manure) has a very high water table, the EIS fails to consider potential risk of bacteria and nitrate contamination to the

region's groundwater supplies and the new influx of hormones, antibiotics, and other foreign compounds that are harmful to human health.

- *Surface water pollution* – although the DNR admits that all four of the watersheds where manure spreading would occur already have major phosphorus and sediment impairments, the EIS fails to adequately explain how waters will be protected from runoff when Rosendale Dairy plans to spread over 90 million gallons of manure each year on nearby cropland.
- *Missing components* – The DNR is required by law to fully analyze the *available alternatives* to the proposal as well as *potential mitigation* activities that could be taken to reduce overall environmental impacts. These essential elements of any EIS were either completely ignored or given improperly short shrift by the DNR.

SIGNIFICANT COMMENTS REGARDING THE DRAFT WPDES PERMIT

It appears from DNR's approach to this process that the contents of the EIS were never intended to be used by the WPDES permit drafters; yet even on its own, the Draft WPDES Permit has many flaws.

- *Deeply flawed nutrient management plan* – the nutrient management plan (NMP) lies at the heart of a CAFO permit; it describes the steps to be taken to keep nutrients like phosphorus and nitrogen out of surface and groundwaters. But the NMP for Rosendale Dairy is full of omissions and is incomplete. The NMP fails to identify the numerous field tiles and other conduits to surface waters through which pollution will quickly flow; it fails to provide a system to prevent manure spreading on predominately wet fields; and it fails to adequately address contaminated process wastewater at the CAFO site itself.
- *The WPDES permit authorizes a discharge* – DNR and CAFO operators like to think of these permits as “no-discharge” permits; this is clearly inaccurate because the Draft WPDES Permit for Rosendale Dairy would allow a discharge in several circumstances. Therefore the DNR must include additional effluent limitations in the permit to ensure that the area's water quality standards can be met.
- *Keep clean waters clean* – the DNR failed to conduct the necessary “antidegradation” analysis – a process intended (but rarely used by DNR) to prevent further decline in existing water quality. This analysis would require Rosendale Dairy to justify the new discharge and explore a reasonable range of treatment alternatives.
- *Insufficient water quality and soil monitoring* – many fields where Rosendale Dairy would like to spread manure have up to 90% wet soils – areas where the water table is so high that there is a severe risk of groundwater contamination. Yet the DNR requires water quality monitoring in only two such fields, and NO monitoring of any of the dozens of small streams crisscrossing the region.

CONCLUSION

The Draft EIS and Draft WPDES Permit for Rosendale Dairy are fatally flawed; the DNR must deny the permit and substantially rewrite the EIS after making the necessary analysis that complies with the Wisconsin Environmental Policy Act and the federal Clean Water Act. Many thanks to Mr. Alex Sagady, environmental consultant of Lansing, MI, for his technical review of the EIS and Permit. The full comments and additional details are available at www.midwestadvocates.org.