



**BOARD OF DIRECTORS**

**GORDON STEVENSON**  
President  
*Black Earth*

**ARLEN CHRISTENSON**  
Founding President  
*Madison*

**DAVE CLAUSEN**  
Secretary  
*Amery*

**DAN COLLINS**  
*Mequon*

**JIM GOODMAN**  
*Wauwatosa*

**TIM JACOBSON**  
*Boscobel*

**WILLIAM H. LYNCH**  
*Milwaukee*

**HELEN SARAOKOS**  
Vice President  
*Madison*

**MELISSA SCANLAN**  
Founder  
*Norwich, VT*

**KELLY PARKS SNIDER**  
*Madison*

**STEPHANIE TAI**  
*Madison*

**DAVID WERNECKE**  
Treasurer  
*Baraboo*

**STAFF**

**KIMBERLEE WRIGHT**  
*Executive Director*

**JIMMY PARRA**  
*Staff Attorney*

**SARAH GEERS**  
*Staff Attorney*

**TRESSIE KAMP**  
*Staff Attorney*

**DEBBY ANDERSON MEYER**  
*Development Director*

**STACY HARBAUGH**  
*Communications & Outreach Coordinator*

**LAUREN RUDERSDORF**  
*Administrative & Financial Coordinator*

**JODI HABUSH SINYKIN**  
*Of Counsel*

 /MidwestEnvironmentalAdvocates  
 /MidwestAdvocate

December 6, 2016

Brad Holtz  
Department of Natural Resources  
2984 Shawano Ave.  
Green Bay, WI 54313-6727  
Bradley.Holtz@wisconsin.gov

RE: Comment on Da Ran Dairy LLC WPDES Permit Reissuance  
Permit No. WI-0059579-04-0

Mr. Holtz:

Midwest Environmental Advocates, Inc. ("MEA") submits the following comments regarding the Wisconsin Department of Natural Resources' ("DNR") proposed reissuance of Da Ran Dairy LLC's ("Da Ran") Wisconsin Pollutant Discharge Elimination System ("WPDES") Permit ("Reissued Permit"). MEA is a non-profit environmental law center that provides legal and technical assistance to communities and families working for clean air, clean water, and clean government.

MEA submits these comments on behalf and as a member of the Sustain Rural Wisconsin Network ("SRWN"). SRWN is a statewide coalition dedicated to protecting the economic, social and cultural vitality of rural communities as well as the land, air and water we all depend on for happy, healthy lives.

SRWN appreciates that the DNR acknowledged the high level of public interest in the Reissued Permit by holding a public hearing on November 29, 2016. SRWN also appreciates the opportunity to submit the following comments, which draw the DNR's attention to the below-listed issues:

- 1) SRWN questions whether the Reissued Permit comprehensively addresses the history of point source runoff from manure stacking sites at the concentrated animal feeding operation ("CAFO");
- 2) The Reissued Permit underestimates annual manure generation as compared to the CAFO's 2015 annual report; and
- 3) SRWN seeks confirmation that the Reissued Permit resolves the conditions that led to the October 25, 2016, manure runoff event that polluted jurisdictional waters.

[MIDWESTADVOCATES.ORG](http://MIDWESTADVOCATES.ORG)

**SRWN questions whether the Reissued Permit comprehensively addresses the history of point source runoff from manure stacking sites at the CAFO.**

On or about May 29, 2012, the DNR sent a letter to Da Ran Dairy regarding a Notice of Non Compliance regarding an unapproved solid manure stacking site. In that letter, the Department states that they have “serious concerns regarding Da-Ran’s failure to stack manure according to the requirements outlined in their WPDES permit.”<sup>1</sup>

On or about June 22, 2012, Brown County Corporation Counsel, Kristen Hooker, sent correspondence to Da Ran Dairy concerning a Notice of Noncompliance regarding the farm’s violation of Brown County Animal Waste Management Ordinances Chapter 26. Specifically, “[n]o information regarding stacking sites was communicated to or approved by Brown County Land and Water Conservation Department as part of nutrient management plan” and “[n]o temporary stacking permits were applied for or granted...”<sup>2</sup>

Despite Da Ran Dairy’s history of runoff from manure stacking sites, the farm’s current permit allows for such manure stacking. The reissued permit includes minimal modifications to Da Ran Dairy’s current manures stacking requirements, with the exception of the construction of a solid manure stacking pad.

Pursuant to the Wisconsin Administrative Code, Chapter NR 243, there is a zero-discharge standard for CAFO production area, including manure stacking sites. Violation of this zero-discharge standard may constitute violation of the Clean Water Act. Therefore, SRWN requests that the DNR’s written response to comments on the Reissued Permit provide with specificity the permit terms and conditions that ensure resolution of past manure stacking runoff.

**The Reissued Permit underestimates annual manure generation as compared to the CAFO’s 2015 annual report.**

The Reissued Permit fact sheet states that the farm generates approximately 19.7 million gallons of manure and process wastewater per year. However, Da Ran Dairy’s WPDES annual report from 2015 states that the farm generated over 23.5 million gallons of liquid manure that year.

The discrepancy between these two numbers is especially concerning given Da Ran Dairy’s history of having inadequate manure storage. For example, on December 14, 2015, Da Ran Dairy refused to abide by the Department’s request that they remove manure from a pit that was within one inch of overflowing, and transfer it to another site. Given this history, manure storage should reflect the larger and presumably more accurate manure generation estimates from 2015.

---

<sup>1</sup> See, e.g., Socially Responsible Agriculture Project, The Rap Sheets, [http://sraproject.org/pdfs/SRAP\\_rapsheet\\_2015.pdf](http://sraproject.org/pdfs/SRAP_rapsheet_2015.pdf) (last visited Dec. 5, 2016).

<sup>2</sup> See *id.*

SRWN requests that the DNR's written response to comments on the Reissued Permit explain the basis for Reissued Permit Fact Sheet's claim that the farm is only estimated to generate 19.7 million gallons of manure in light of the fact that the farm generated significantly more manure in 2015.

**SRWN seeks confirmation that the Reissued Permit resolves the conditions that led to the October 25, 2016, manure runoff event that polluted jurisdictional waters.**

SRWN understands that WPDES permits cannot address the cause of certain types of manure spills, such as tanker accidents. The fall 2016 spill, however, is exactly the sort of event that should have been prevented by an accurate WPDES permit and corresponding nutrient management plan ("NMP"). Specifically, the spill at issue was caused by spreading on a saturated field with a tile outlet that allowed runoff into a wetland, an intermittent stream, and surface water. Manure discharge into waters of the state and waters of the United States may constitute a violation of the Clean Water Act and a type of action that the DNR cannot allow to continue if the Department is to uphold its delegated authority to administer the WPDES Program.

Because final CAFO NMPs are not readily available to the public during the public notice and comment timeline for WPDES permits, it is difficult to ascertain whether an accurate field map for field 89 is included in Da Ran's most recent NMP. SRWN requests that the DNR clarify in its written response to comments on the Reissued Permit whether Da Ran and the DNR have resolved this issue. The DNR also previously had difficulty accessing all Da Ran field maps due to an outdated mapping system. Please indicate whether the Department has on hand updated restriction maps for all fields such that both the DNR and the public can view conveniently.

Thank you for your consideration and response to SRWN's comments on the Reissued Permit.

Sincerely,

/s/

Jessa Hackman  
Law Clerk

/s/

Tressie Kamp  
Staff Attorney

cc: Mary Dougherty, President, Sustain Rural Wisconsin Network