

May 24, 2021

Iowa Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: Kayla.Lyon@dnr.iowa.gov

Re: Supreme Beef NMP and Departmental Evaluation

Dear Director Lyon:

As part of public comments submitted regarding the Supreme Beef Nutrient Management Plan, many Iowans wrote passionately about the truly unique and environmentally sensitive nature of Bloody Run Creek and surrounding watersheds. This area of Karst geology contains cold water trout streams, Outstanding Iowa Waters, spring creeks, limestone bluffs, algific talus slopes, and many other wonderful features. Along with this great beauty comes danger. There are thousands of identified sinkholes and uncountable fissures and crevices in exposed and barely hidden fractured limestone and dolomite that are direct conduits from the surface to the shallow spring-laden aquifer below. Iowa Department of Natural Resources (DNR) has a duty to protect Iowa water and landscapes from contamination that threatens public health and livelihoods. Some agricultural operations subject to DNR's permitting authority must be restricted from areas where the risk posed to water quality and the environment is just too high.

Several commenters specifically discussed the authority granted to DNR under 567 IAC 65.5(3) and IAC 65.103(5) to conduct a "departmental evaluation," which would provide special protection to environmentally exceptional areas when reviewing proposed CAFO construction projects and NMPs and MMPs. This authority is sometimes referred to as the "Director's Discretion Rule."

In the April 2 "Summary of Comments" the agency response on this issue states "DNR has reviewed the NMP and it meets the requirements of the regulations." No further explanation was given. Respectfully, the purpose of the Director's Discretion Rule is to allow the Department to look beyond specific requirements and conduct an evaluation pursuant to this subrule to holistically determine the potential adverse effects on natural resources or the environment. The response to our comments on this issue did not do that.

We the undersigned request that the Department conduct such an evaluation based upon the factors listed in 567 IAC 65.103(5), make public those findings, and present a decision. Those factors include:

- The likelihood open feedlot effluent will be applied to frozen or snow-covered cropland.

- The proximity of the open feedlot operation structures or open feedlot effluent application areas to sensitive areas, including but not limited to publicly owned land, designated areas, trout streams and karst terrain.
- Topography, slope, vegetation, potential means or routes of conveyance of open feedlot effluent spilled or land applied.
- Application areas involve cropland with predominant slopes greater than 9 percent without a conservation plan approved by the local soil and water conservation district or its equivalent.
- Whether open feedlot effluent for land application is hauled or otherwise transported more than five miles.
- Open feedlot effluent from the operation will cause pollution of a water of the state.
- Open feedlot effluent from the operation will cause a violation of state water quality standards.
- An adverse effect on natural resources or the environment will occur in a specific area due to the current concentration of animal feeding operations or the associated open feedlot effluent application areas.

We are aware that the Administrative Rules Review Committee placed an objection on the two separate sections of 567 IAC Chapter 65 that enumerate the Director's Discretion rule for confinement-based CAFOs (IAC 65.5(3)) and open feedlot-based CAFOs (IAC 65.103(5)). This does not invalidate the rule. Moreover, the ARRC rationale states that the Master Matrix review process is the correct forum to review environmental factors for the decision to approve or deny a proposed facility. This only applies to confinement-based CAFOs. The Master Matrix review process does not apply to open feedlot-based CAFOs, and there is no equivalent review process other than that contained in IAC 65.103(5) that can be used to explicitly protect environmentally sensitive areas. The Department should undertake this evaluation consistent with the factors listed in the rule.

Thank you for considering our request. We look forward to hearing from you soon.

Sincerely,

Sierra Club Iowa Chapter
 Iowa Environmental Council
 Larry Stone, Clayton County Resident
 Steve Veysey, retired Iowa State University chemist
 State Representative Sharon Steckman
 Iowa Representative, Ranking Member of the House Environmental Protection Committee Art
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 State Representative Marti Anderson
 State Representative Bruce Hunter
 State Representative Liz Bennett
 State Senator Joe Bolkcom
 State Senator Rob Hogg

State Senator Claire A Celsi
State Senator Pam Jochum, Dubuque
Panora Conservation Chapter of the Izaak Walton League of America
Iowa's Coldwater Conservancy
Trout Unlimited Driftless Chapter
Trout Unlimited Spring Creeks Chapter
Trout Unlimited North Bear Chapter
Trout Unlimited MoKan Chapter
Trout Unlimited TU 710 Nebraska Chapter
Trout Unlimited Twin Cities Chapter
Trout Unlimited Lee Wulff
Iowa Farmers Union
Iowa Organic Association
Iowa Audubon
Hawkeye Fly Fishing Association
Protecting Outstanding Iowa Waters
Common Good Iowa
Iowa Citizens for Community Improvement
Food & Water Watch
Environmental Law and Policy Center
Iowa Rivers Revival
AIA Iowa
Iowa Alliance for Responsible Agriculture
Cedar Wapsie Sierra Club Group
White Pine Sierra Club Group
Cedar Prairie Sierra Club Group
Central Iowa Sierra Club Group
Poweshiek CARES
100 Grannies for a Livable Future Iowa City
Midwest Waterscapes
Mike Delaney
Christine A. Curry
Chris Schoen, Resident of Clayton County
Dianna K. Elsinger, Resident of Clayton County
Jennifer Elsinger, Resident of Clayton County
Laura Elsinger, Resident of Clayton County