



Mr. David Siebert
Bureau Director
Energy, Transportation and Environmental Analysis
Wisconsin Department of Natural Resources
101 S. Webster St.
Madison, WI 53703

March 18, 2015

Dear Mr. Siebert,

On December 23, 2014, the Wisconsin Department of Natural Resources (WDNR) received a preliminary application to build a new Concentrated Animal Feeding Operation (CAFO) in the Town of Eileen, Bayfield County. Badgerwood LLC proposes to house over 26,000 swine in three barns and to land apply approximately 6.8 million gallons of liquid manure on 880 acres of farmland in the Fish Creek and White River watersheds. Due to the size and complexity of the project and potential environmental impacts, Clean Wisconsin respectfully requests that the WDNR prepare an environmental impact statement for the project as described under Wis. Admin. Code NR 150.30.

Badgerwood, LLC's proposal has the potential to result in widespread environmental and public health impacts, including but not limited to:

- Air emissions at the production site
- Odor impacts to neighboring homes and communities
- Rerouting a surface water tributary to a navigable waterway
- Manure pit leaching to groundwater
- Landspreading liquid manure in exceptional resource water watersheds
- Introduction of antibiotic resistant bacteria into drinking water and surface waters.
- Introduction of zoonotic bacteria found in swine manure, including Hepatitis E.
- Release of other pathogens into the air, water and soil.

Generally, a CAFO permit is considered an "equivalent analysis action" under WDNR's regulations governing when an environmental impact statement must be completed for the purposes of the Wisconsin Environmental Policy Act (WEPA), Wis. Stat. §1.11. Wis. Admin. Code NR 150.20(2)(a)(19). As a general matter, "equivalent analysis actions" do not require additional analysis because "a detailed environmental analysis and public disclosure are conducted as part of the department programmatic procedure" for those actions. Wis. Admin. Code NR 150.20(2)(a). However, the Department maintains broad discretion to develop an environmental impact statement if the project meets one or more criteria identified in Wis. Admin. Code NR 150.20(4)(b). The Badgerwood, LLC proposal meets at least five of the eight criteria outlined in that section, and therefore warrants the development of an environmental impact statement:

- **The project involves multiple department actions**
 - Applicants state that they will need to receive a WPDES permit, a stormwater runoff permit, and a high-capacity well approval.
- **The project may be in conflict with local, state, or federal environmental policies.**

- Bayfield County recently adopted livestock facility siting rules and instituted a temporary moratorium on siting CAFO facilities while local authorities study the impacts.
- **The project may result in deleterious effects over large geographic areas.**
 - The project has the potential to significantly affect two watersheds that both drain to Lake Superior. Impacts on both watersheds and impacts on Lake Superior should be considered.
 - The project has the potential to introduce new pathogens into the region that can affect both human and animal populations. Hepatitis E, for example, is linked with swine manure and has the potential to infect the local deer herd.¹
- **The project involves broad public controversy**
 - The Badgerwood, LLC project has elicited significant public concern. Citizens, municipalities, and NGOs have all expressed concern about the project and have submitted requests to the WDNR to prepare an EIS.
- **The project may result in substantial risk to human life, health or safety.**
 - Recent research and data suggests that there is reason to be concerned about public health implications of CAFOs, especially with regard to impacts on water quality and air quality, but also regarding impacts on pathogens and antibiotic resistant bacteria.

Potential impacts from the proposal present myriad threats to environmental and public health, and should be thoroughly evaluated and weighed in WDNR’s consideration of whether to approve permits for this facility. Unfortunately, categorization of CAFO permitting as an “equivalent analysis action” under NR 150 prevents a thorough exploration of all these impacts, especially with regard to air and public health impacts that are not contemplated in the typical course of wastewater or stormwater permitting actions. Preparing an EIS will increase public participation, increase transparency, and allow for a full investigation of the extent and scale of the impacts of this project on the local and regional environment. For these reasons, and when considered in light of the criteria outlined in Wis. Admin. Code NR 150.20(4)(b), it is clear that WDNR should prepare an environmental impact statement for this project.

Thank you in advance for your consideration of this request and for your continued dedication to preserving Wisconsin’s natural resources.

Sincerely,

Elizabeth A. Wheeler

Elizabeth Wheeler
Senior Staff Attorney

cc: Russ Rasmussen, Water Division Administrator
Nancy Larson, Agency Spokesperson, Badgerwood CAFO

¹ Christou, L. and Kosmidou M., 2013. “Hepatitis E virus in the Western world – A pork-related zoonosis.” Clin Microbiol Infect 2013; 19: 600–604.