

## **Neighbors' Statement on Kohlnhofer Factory Farm and MPCA's Flawed Environmental Review and Permitting Process**

**As residents of Zumbrota Township, we have serious concerns about the damage the proposed Kohlnhofer factory hog farm would bring to our community.** This is a large proposal of 4,700 hogs with a 3.7-million-gallon manure pit. This is over three times the size of the largest feedlot currently in our township. We want to be clear that we DO support the family farms in our township. However, this feedlot is too large for the area and is not consistent with our current make-up. It will jeopardize our air and water quality and have negative impacts on our quality of life.

**We are concerned with the environmental review and permitting process of the Minnesota Pollution Control Agency (MPCA). The Environmental Assessment Worksheet (EAW) included significant errors and the MPCA has been unresponsive to citizens.** The MPCA's priority must be to protect the environment and serve the people of Minnesota, NOT quickly approve factory farm permits at the expense of an accurate environmental review and meaningful public input. We hope that the MPCA changes course tonight and listens closely to what we, the neighbors to this proposal, are saying. We ask that all citizens who are in support of the MPCA protecting their livelihood and doing a thorough environmental review please stand.

What follows are our most serious concerns and how we believe they must be addressed:

### **1. The current EAW conducted by the MPCA is inaccurate and incomplete. A new thorough and accurate EAW must be done.**

The most egregious missing and inaccurate information in the EAW includes:

- Incredibly, four homes that are within 1 mile of the proposed factory farm are missing from the maps and analysis in the EAW. These homes can be found on a Google search, but apparently, this basic fact checking was never done. When our homes are missing from the environmental review, we know we literally were not considered.
- Thirteen wells within 1 mile of the proposal are missing in EAW maps and analysis. This is the source of our drinking water. A simple door-to-door survey to determine the correct number of wells was apparently never conducted and information was relied on from a knowingly outdated source.
- The karst evaluation was inaccurate and missing karst features visible and known to neighbors. Despite telling Kohlnhofers three times about a missing sink hole on neighboring property, it was not included on their EAW.
- The amount of water the facility would use per year is dramatically underestimated. The EAW claims that the facility will use 1.7 million gallons of water annually, but according to the University of Minnesota's calculations, they will need over 4 times that amount.
- The MPCA required Circle K to rerun their Air Quality Modeling Report. The proposed facility did not change. None of the surrounding feedlots changed. However, the results of the 2 air models are dramatically different.

The MPCA itself has admitted to some of these major flaws in the EAW but to date has failed to commit to doing a new, accurate and complete EAW. As a result of us bringing these issues to their attention, the MPCA ordered a new karst evaluation and a new air quality monitoring report. It is the MPCA's responsibility to do a thorough and accurate EAW, and it is the only way for citizens to be fairly engaged and respected in the process. Merely responding to the inaccuracies as part of the "Response to Comments" does NOT do the job. We have the right to an accurate EAW that includes our homes and wells, and we have the right to respond to that full and accurate analysis. These omissions and inaccuracies are fundamental to the key areas that an environmental assessment should be analyzing, such as water quality, air quality, and karst geology. The only remedy is to do a new accurate and thorough EAW.

**2. The decision on whether or not to do an Environmental Impact Statement should be made at a public hearing at which citizens are allowed to testify.**

Once the new EAW has been completed, the decision on whether to do an EIS should be made at a public hearing before the Governor's Committee to Advise the Minnesota Pollution Control Agency. For decades, the MPCA's environmental review process included a public hearing in front of the Citizens' Board. This public body debated the issue after taking public testimony, and a public decision was made in front of concerned citizens. In 2015, the Minnesota Legislature, in a late-night backroom deal, abolished the Citizens' Board. That disgraceful action does not mean that the MPCA needs to abandon the values of making important decisions publicly and transparently with input from those who are rightly concerned. Governor Dayton took executive action to create this committee to ensure that citizen engagement in environmental regulatory decisions. In his words, "As regulators make decisions, and enforce our State's environmental protection laws, Minnesota citizens need and deserve a seat at the table."

**3. The public comment period for the National Pollution Discharge Elimination System (NPDES) permit ran concurrently with the public comment period for the EAW. The comment period for the permit needs to be done after the environmental review is complete.**

The purpose of the environmental review is to inform those working on the permit. Yet the public comment period for the permit ran concurrently with the EAW comment period, from September 5, 2016 to October 5, 2016, and therefore ended before environmental review was complete. Citizens need the information in the environmental review process to fully understand the impacts of the project and to include those in their public comments to the NPDES permit. There is only one reason to have the public comment period to the NPDES permit so inappropriately early in the process: to fast track issuing the permit.

The NPDES permit is to ensure that the millions of gallons of liquid hog manure stored in the pit does not pollute our water. This permit needs to be done right, not as quickly as possible. The public comment period to this NPDES permit needs to be reopened AFTER the environmental review is fully completed.

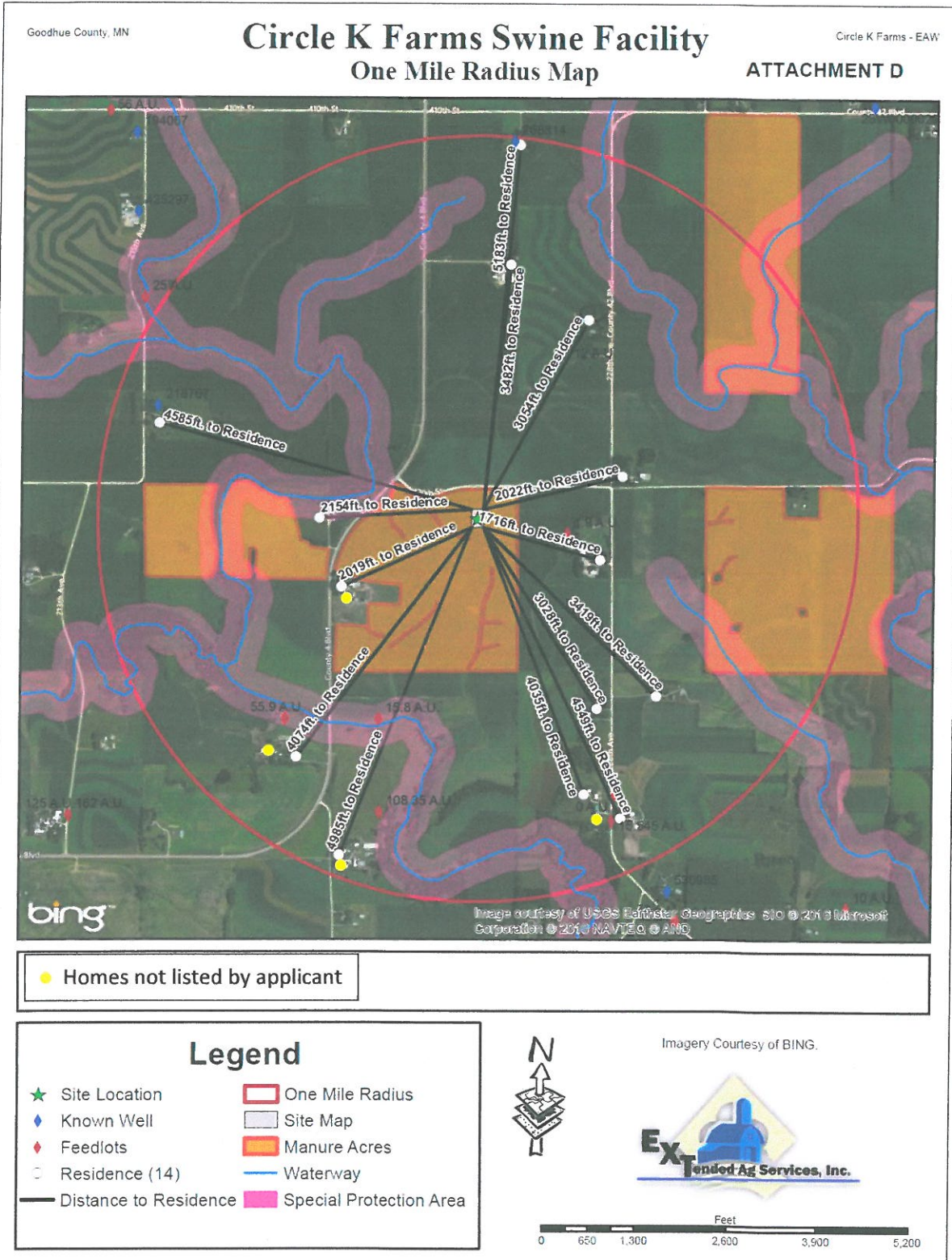
**4. Information about the NPDES permit, that should be readily available to the public, has been difficult to get and still not forthcoming after being requested two months ago.**

We requested a copy of the public comments submitted during the NPDES comment period on October 17, 2016, and so far, we have gotten nothing. On December 9, one of us called the MPCA staff member in charge of the NPDES permit and asked to come in and review the file. We know this has been done many other times on other feedlots. We were told we would need to pay for this information and that the process would be long and tedious. This treatment is unacceptable. The MPCA needs a transparent process where public information is readily available. The MN Statutes states that "all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the offices of the MPCA."

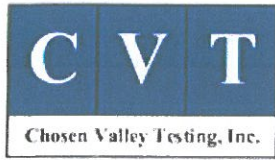
In summary, we are disappointed to have to say that the MPCA has treated our input and engagement as a nuisance. However, we get the impression that the Kohlnhofers have been treated like customers. We spent time trying to get on the agenda for tonight, while the Kohlnhofers were offered time and space without a question.

We are the people who will be directly impacted by this factory farm, and we are the people the MPCA has a responsibility to protect. We understand that MPCA staff are here tonight to answer questions about the permitting process. We do not need more information on the permitting process. **We need a complete and thorough EAW. We need a separate NPDES comment period that begins after environmental review is over. We need an EIS, since this project will have significant environmental effects. We NEED a public decision-making process.**

# Attachment 1: Missing Homes



Attachment 2: Missing Karst Features



2011 Aerial Sketch  
Proposed Hog Barn and Manure Pit  
T110N R15W, Sec. 14, NW ¼  
Zumbrota Twp, Goodhue Co, MN  
8538.15.MNR

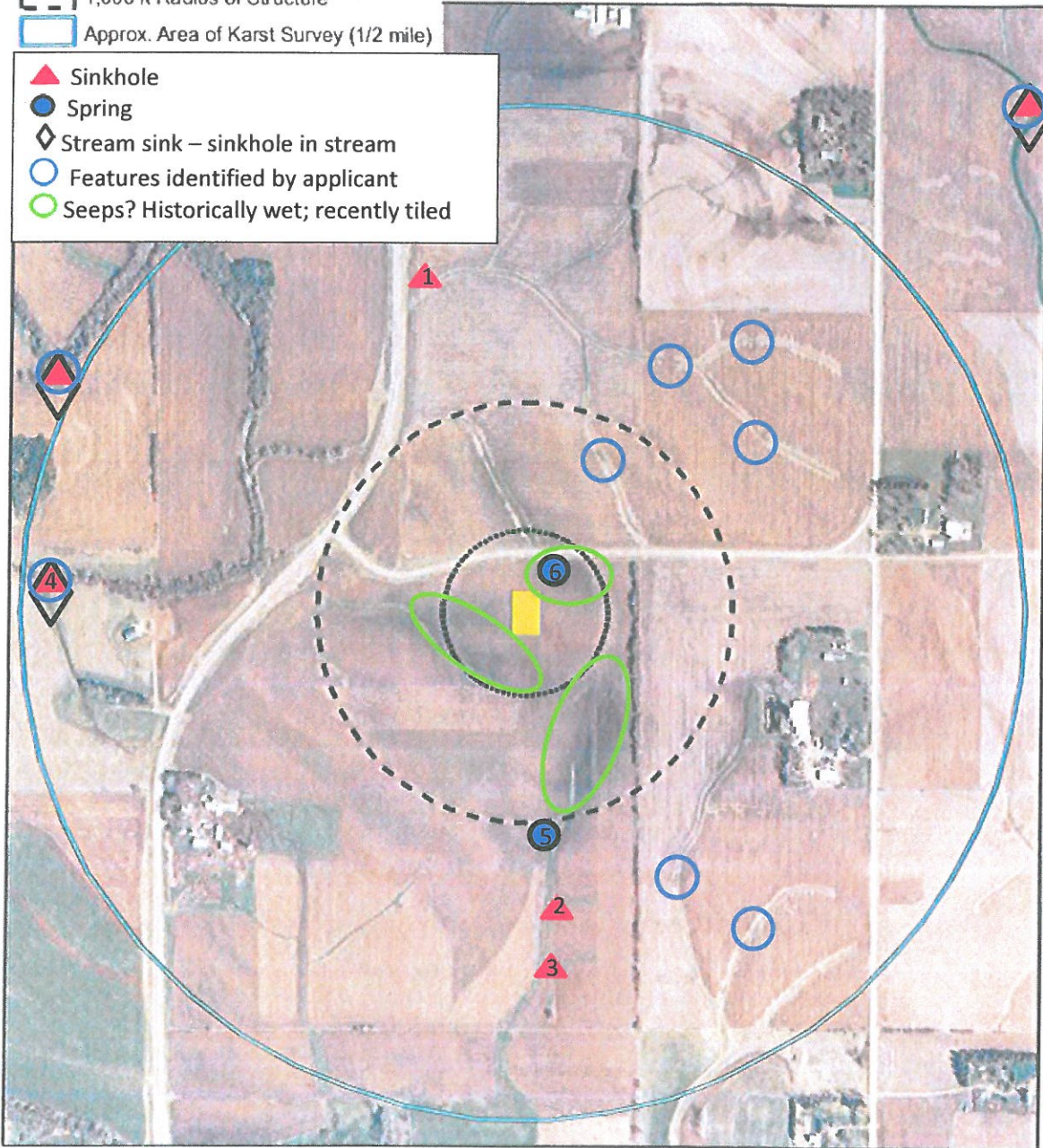
Legend

- Project Area
- 300 ft Radius of Structure
- 1,000 ft Radius of Structure
- Approx. Area of Karst Survey (1/2 mile)

0 500 1,000 2,000 Feet



- Sinkhole
- Spring
- Stream sink – sinkhole in stream
- Features identified by applicant
- Seeps? Historically wet; recently tiled



**Attachment 3: University of Minnesota Extension, "Formulating Farm Specific Swine Diets," by M. L. Augenstein, L. J. Johnston, PhD., G. C. Shurson, PhD., J. D. Hawton, PhD. and J. E. Pettigrew,**

Table  
1.

Estimated Water Consumption of Pigs<sup>a</sup>

Class of pig	Water intake (gal/head/day)
Sow and litter	8
Nursery pig	1
Growing pig	3
Finishing pig	4
Gestating sow	6
Boar	8

<sup>a</sup> Midwest Plan Service, 1983

4 gal/head/day X 365 days X 4,700 hogs =  
**6,862,000 gallons per year**

**Circle K EAW reports 1.7 million gallons per year,  
which equals less than 1 gallon/head/day**

Water quality should also be considered. Water quality guidelines are listed in Table 2. These guidelines are similar to but more lenient than water quality standards for humans.

Table 2.

Water Quality Guidelines for Swine\*

Water analysis	Acceptable range
pH	6-8
Total dissolved solids (TDS)	0-3000 pp <sup>b</sup>
Nitrate nitrogen	0-100 ppm
Nitrite nitrogen	0-10 ppm
Sulfate	0-1000 ppm <sup>c</sup>
Total baCtéFla	0-1000/ml
Coliform bacteria	0-so/«i

<sup>a</sup>Adapted from Bergsrud and Linn (1989).

<sup>b</sup>Levels up to 5000 ppm can be tolerated with some adaptation  
Levels up to 1500 ppm can be tolerated with some adaptation

## Estimating nutrient needs at each production stage

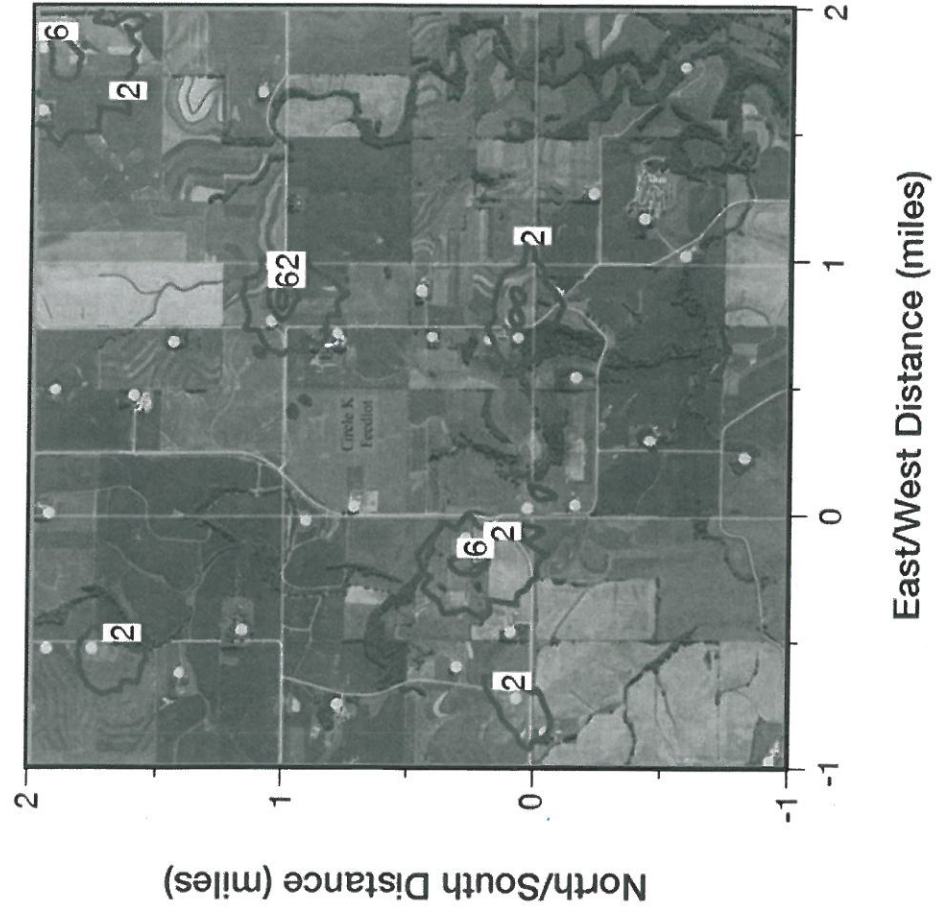
### Feeding gestating sows

The primary objective for nutrition of gestating sows is precise control of weight gain and body condition while supporting optimal fetal development. Sows must be limit-fed to minimize excessive weight gain.

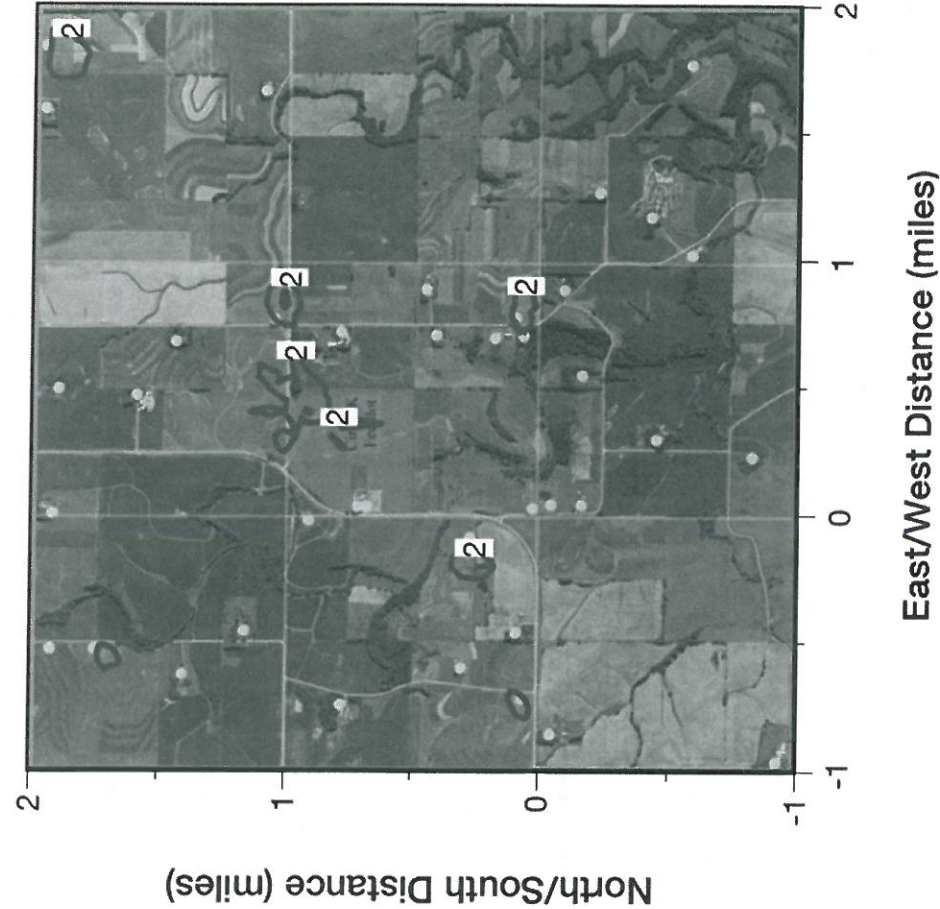
# Circle K Feedlot Air Models September 2016 compared to November 2016 (Attachment 4)

Hydrogen sulfide model

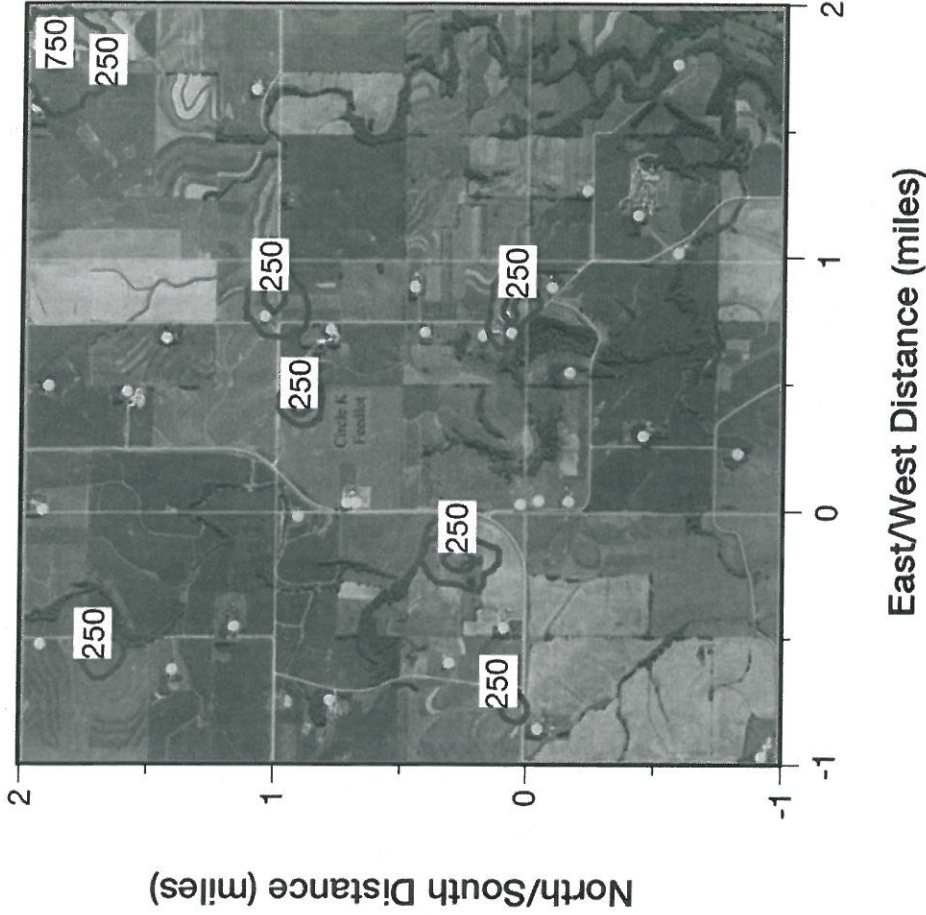
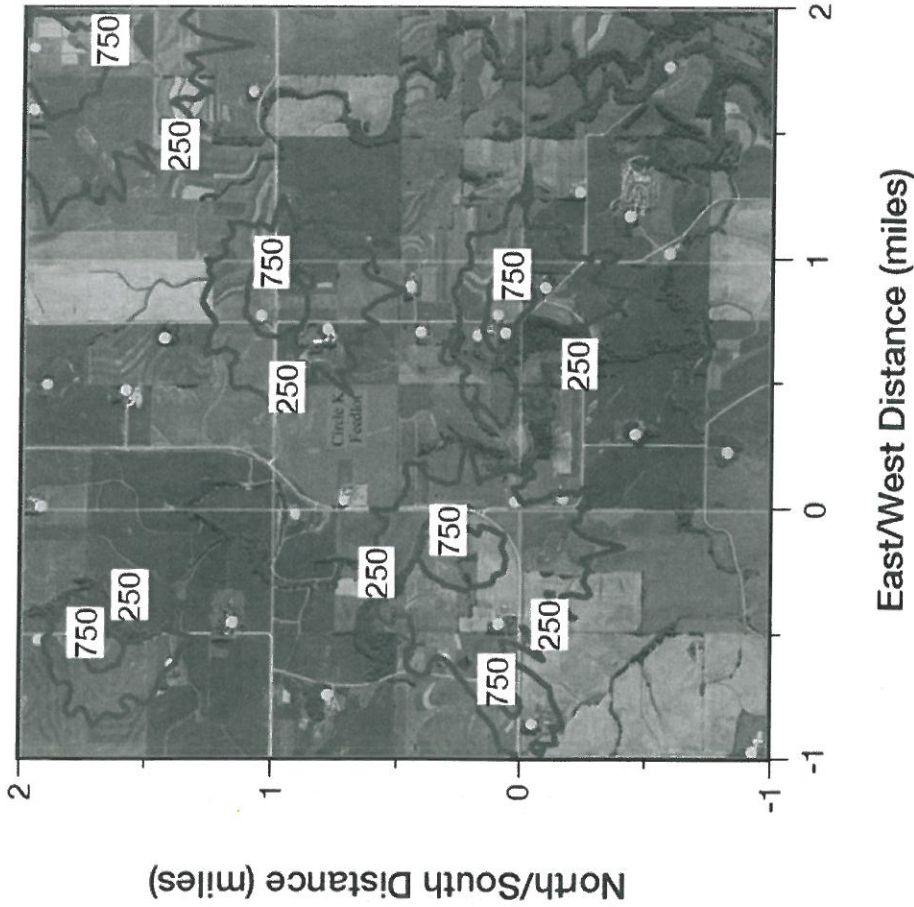
EAW original



Update



**Figure 14. Maximum AERMOD-generated hourly hydrogen sulfide concentrations in ppb for the proposed Circle K hog feedlot and the seven neighboring feedlots. The contour lines represent 2 and 6 ppb of hydrogen sulfide. The plotted concentrations do not include the 17-ppb background hydrogen sulfide concentration.**

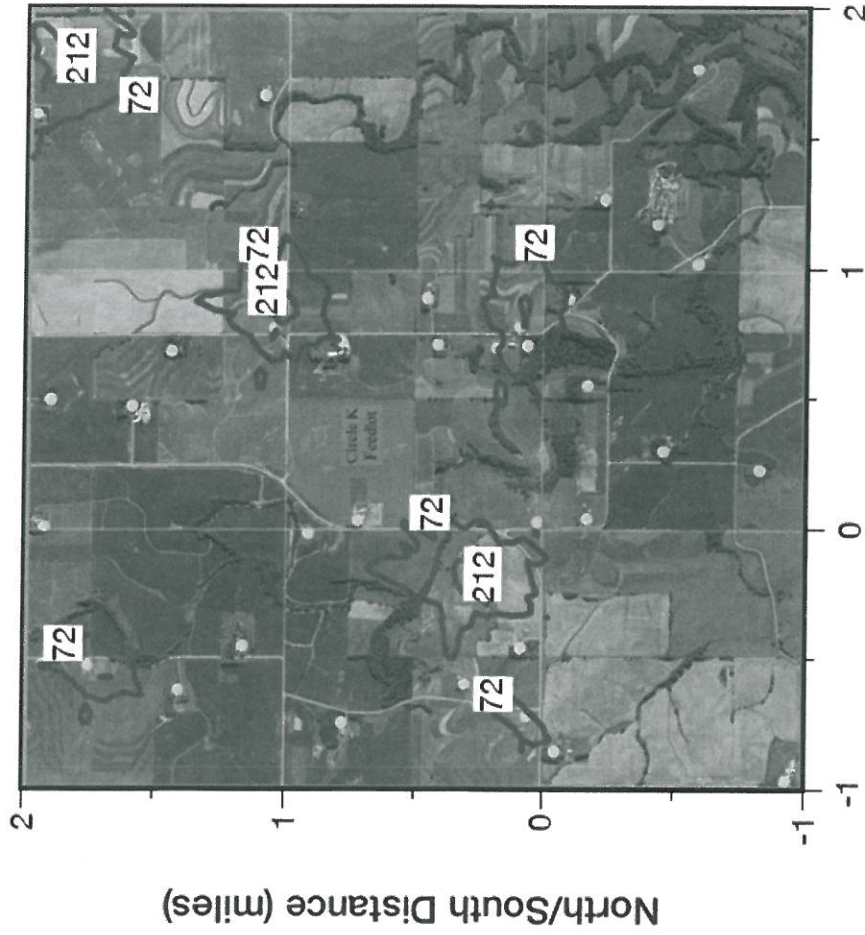


**Figure 15. Maximum AERMOD-generated hourly ammonia concentration in  $\mu\text{g}/\text{m}^3$  for the proposed Circle K hog feedlot and the seven neighboring feedlots. The contour lines represent 250 and 750  $\mu\text{g}/\text{m}^3$  of ammonia. The plotted concentrations do not include the 148  $\mu\text{g}/\text{m}^3$  background ammonia concentration.**

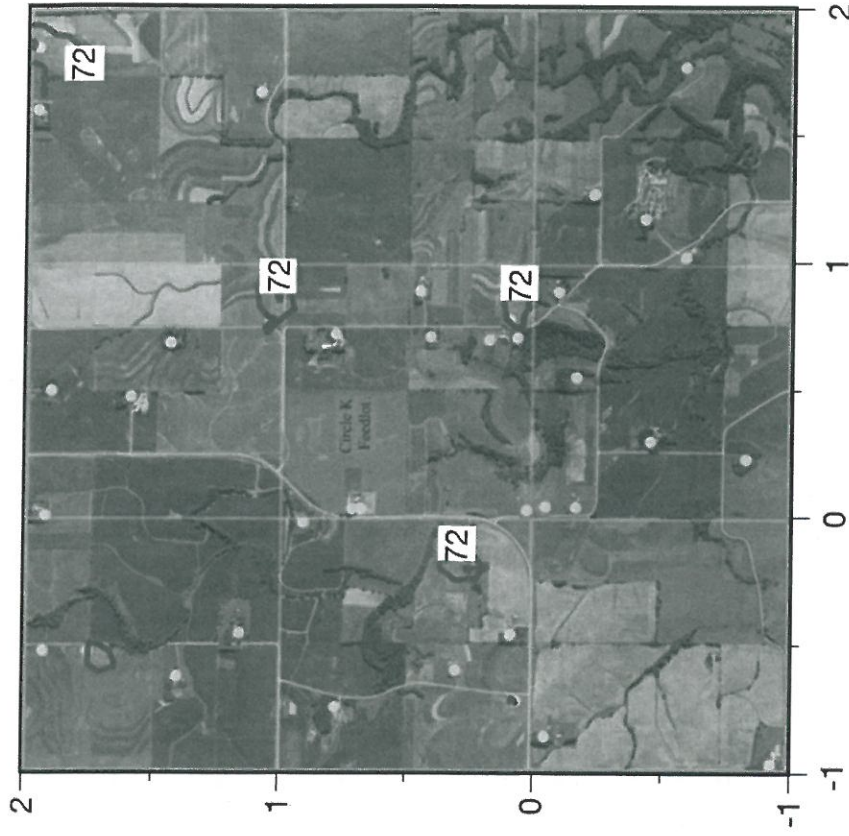


Odor Intensities at property lines

Original



Updated



East/West Distance (miles)

East/West Distance (miles)

Figure 16. Maximum AERMOD-generated hourly odor intensities for the proposed Circle K hog feedlot and the seven nearby existing feedlots. The threshold for "faint" odors is 72 OU and for "moderate" odors is 212 OU (Table 5).

**Table 18. Maximum neighbor odor intensities.**  
 (\* = feedlot residence)

Neighbor	Maximum Hourly Odor Intensity (OU, d/t)	Frequency at Which the "Faint" Odor Threshold is Exceeded (percent)
A1	78	0.00
A2*	134	0.05
A3	44	0.00
A4	14	0.00
B1	8	0.00
B2	10	0.00
B3	11	0.00
B4	26	0.00
B5*	206	0.16
C1	106	0.01
C2*	209	0.17
C3	17	0.00
E1	41	0.00
E2	73	0.00
E3	29	0.00
E4	24	0.00
E5	64	0.00
E6*	142	0.20
E7	132	0.07

**Table 18. Maximum neighbor odor intensities.**  
 (\* = feedlot residence) (continued)

Neighbor	Maximum Hourly Odor Intensity (OU, d/t)	Frequency at Which the "Faint" Odor Threshold is Exceeded (percent)
E8*	45	0.00
F1	14	0.00
F2	27	0.00
F3	110	0.02
F4*	157	0.14
F5	33	0.00
F6	32	0.00
F7*	151	0.04
G1	44	0.00
G2	7	0.00
H1	39	0.00
H2	25	0.00
H3	67	0.00
H4	21	0.00
H5	10	0.00
I1	18	0.00
I2	24	0.00
I3	18	0.00
I4	10	0.00

## STATE OF MINNESOTA EXECUTIVE DEPARTMENT



**MARK DAYTON**  
**GOVERNOR**

**Executive Order 15-15**

### **Creating the Governor's Committee to Advise the Minnesota Pollution Control Agency**

**I, Mark Dayton, Governor of the State of Minnesota,** by virtue of the power vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

**Whereas,** the State of Minnesota is committed to engaging with the citizens of Minnesota on issues related to environmental protection in the State;

**Whereas,** the Minnesota Pollution Control Agency (MPCA) was created in 1967 and since that time its legal structure included a Citizen's Board consisting of the commissioner of the MPCA and eight members of the public;

**Whereas,** it is in the best interests of Minnesotans that there remain a forum for public input, discussion, and debate on important and controversial environmental issues and decisions affecting Minnesotans and their communities around the state; and

**Whereas,** it is also beneficial, for transparent and deliberate decision-making on important issues affecting Minnesota's environment and human health, that a citizen's advisory committee be created to provide advice and counsel to the commissioner of the MPCA.

**Now, Therefore,** I hereby order that:

1. The Governor's Committee to Advise the Minnesota Pollution Control Agency (Committee) is established;
2. The Committee shall consist of eight members appointed by the Governor, and shall be chaired by the Commissioner of the MPCA;

# Attachment 6



Minnesota Pollution  
Control Agency

520 Lafayette Road North  
St. Paul, MN 55155-4194

## Public Notice of Intent to Issue

**Feedlots**  
MNG441884

### General information

Public comment period begins: September 5, 2016

Public comment period ends: 4:30 p.m. on October 5, 2016

Current permit issued: N/A

Current permit expiration date: N/A

#### Name and address of Permittee:

Circle K Farms  
35559 County 45 Blvd  
Lake City, MN 55041

#### Facility name and location:

Circle K Farms - Z Finisher  
County 42 Blvd  
Mazeppa, MN 55956  
Goodhue County  
T110N, R15W, Section 014

#### MPCA contact person:

Mark P. Gernes  
Watershed Division  
Minnesota Pollution Control Agency  
18 Wood Lake Drive Southeast  
Rochester, MN 55904  
Phone: 507-206-2643  
Email: [mark.p.gernes@state.mn.us](mailto:mark.p.gernes@state.mn.us)

File manager phone: 651-757-2728 or  
1-844-828-0942

**Watershed:** Zumbro River

### Description of Permitted Facility/Activity

This is a public notice of Intent to Issue coverage under the State of Minnesota General Animal Feedlot National Pollutant Discharge Elimination System (NPDES) Permit. A copy of the permit is available for review on the Minnesota Pollution Control Agency (MPCA) webpage <https://www.pca.state.mn.us/quick-links/feedlot-program> or at the MPCA office address listed under the MPCA contact person. The MPCA will mail or email a copy of the 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.

This is a proposed new feedlot facility. The proposed new facility will be composed of one total-confinement barn with a concrete below barn liquid manure storage areas and an animal mortality composting area. The new facility houses 4,700 head of swine between 55 and 300 pounds (1,410 animal units) for a total of 1,410 animal units (AU).

The preliminary determination to issue this is tentative.

### 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 draft permit.
- (2) Petition the MPCA to hold a public informational meeting.
- (3) Petition the MPCA to hold a contested case hearing.

### 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 or the draft permit.
- (2) The action you wish the MPCA to take, including specific references to the 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.



**Minnesota Pollution  
Control Agency**

520 Lafayette Road North  
St. Paul, MN 55155-4194

# Notice of Availability of an Environmental Assessment Worksheet (EAW)

**Circle K Family Farms – Z Finisher**

*Doc Type: Public Notice*

## Public Comment Information

**EAW Public comment period begins:** September 5, 2016  
**EAW Public comment period ends:** 4:30 p.m. on October 5, 2016  
**Notice published in the EQB Monitor:** September 5, 2016

## Facility Specific Information

**Facility name and location:**

Circle K Family Farms – Z Finisher  
35559 County 45 Blvd  
Lake City, MN 55041

**Facility contact:**

Andrew Nesseth  
Environmental Consultant  
Extended Ag Services, Inc.  
507 Milwaukee Street  
Lakefield, MN 56150

## MPCA Contact Information

**MPCA EAW contact person:**

Kim Grosenheider  
Project Manager  
520 Lafayette Rd N  
St. Paul, MN 55155  
Phone: 651-757-2170  
Fax: 651-297-2343  
Email: [Kim.Grosenheider@state.mn.us](mailto:Kim.Grosenheider@state.mn.us)  
Admin staff phone: 651-757-2100

**MPCA Permit contact person:**

Mark P. Gernes  
Permit Writer  
Wood Lake Drive SE  
Rochester, MN 55904  
Phone: 507-206-2643  
Fax: 507-280-5513  
Email: [Mark.P.Gernes@state.mn.us](mailto:Mark.P.Gernes@state.mn.us)

## General Information

The Minnesota Pollution Control Agency (MPCA) is distributing this Environmental Assessment Worksheet (EAW) for a 30-day review and comment period pursuant to the Environmental Quality Board (EQB) rules. The MPCA uses the EAW and any comments received to evaluate the potential for significant environmental effects from the project and decide on the need for an Environmental Impact Statement (EIS).

An electronic version of the EAW is available on the MPCA Environmental Review webpage at <http://www.pca.state.mn.us/oxpg691>. If you would like a copy of the EAW or NPDES/SDS Permit or have any questions on the EAW or NPDES/SDS Permit, contact the appropriate person(s) listed above.

## Description of Proposed Project

Circle K Family Farms ("Proposer") proposes to construct and operate a new 1,410 Animal Unit ("AU") total confinement swine barn ("Project"). The Project will house up to 4,700 finishing pigs in a 254 feet by 163 feet confinement barn with a 12-foot deep, below-ground manure pit. The Project will be located in the NE¼ of Section 14 of Zumbrota Township in Goodhue County.

**NOTE: All comment letters are public documents and will be part of the official public record for this project.**

## Need for an EIS

The MPCA Commissioner will make a final decision on the need for an EIS after the end of the comment period.

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