

SOUTH DAKOTA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES

In re:
HEARING FOR RE-ISSUING THE
STATE GENERAL WATER
POLLUTION CONTROL PERMIT
FOR CONCENTRATED ANIMAL
FEEDING OPERATIONS

DENR CONTESTED CASE

**SOUTH DAKOTA PORK
PRODUCERS COUNCIL'S
DISCLOSURE OF WITNESSES
AND EXPERT WITNESSES**

COMES NOW the South Dakota Pork Producers Council, a South Dakota non-profit corporation, and through its undersigned attorney, hereby submits its Witness List as follows:

1. The South Dakota Pork Producers Council ("SDPPC") is an organization of farmers and related industry members who are involved in or contribute to the raising or marketing of swine in the State of South Dakota. SDPPC stands in opposition to any proposed changes which adversely affect animal agricultural production. Therefore, it does not intend to call witnesses in favor of the proposed changes, but will call the following individuals as witnesses to rebut expected testimony from proponents of modifications to the subject permit:

WITNESSES

2. SDPPC may call two of its members to testify as to industry standards, requirements for approval under the General Permit for CAFOs and practical considerations as applied to the situation to be faced by pork producers

under the current and proposed regulations, including requested modifications by other interveners. SDPPC reserves the right to call these witnesses in rebuttal to any proposals or as to any issues that are developed at the hearing. SDPC intends to call:

- a. Dave Uttech – Mr. Uttech is a member of the SDPPC from the Huron, SD area and may testify as to the issues set forth above.
- b. Jim Quackenbusch – Mr. Quackenbush is a member of the SDPPC from the Watertown, SD area and may testify as to the issues set forth above.

EXPERT WITNESSES

- c. Dr. Stephen Pohl, PhD. Dr. Pohl is a retired (emeritus) professor at South Dakota State University in Brookings, SD with significant experience in the swine industry, and Concentrated Animal Feeding Operations (CAFOs). He may be called upon to testify about the proposed changes in the General Permit, the scientific and engineering principles at issue which serve as the basis for approving the permit as recommended by DENR staff, and may rebut certain claims as to facts or the application of science to particular concerns governed by the proposed General Permit from those seeking modification of the recommendations of DENR staff.
 - i. No written report is provided for this expert, as he is expecting to only rebut matters presented by others; this disclosure has been provided before expert reports were due from interveners and Dr. Pohl reserves the right to review and provide any testimony upon review of such reports.
 - ii. A copy of Dr. Pohl's CV is attached hereto as Exhibit SDPPC 1.

- d. Todd Van Maanen, P.E. Mr. Van Maanen is a registered Professional Engineer in SD with extensive experience in the design, approval and permitting, construction, operation and regulations of CAFOs in the region. He may be called to rebut factual or other claims, or to address scientific or engineering principles in rebuttal to those parties who seek to modify the proposed permit as recommended by DENR staff.
 - i. No written report is provided for this expert, as he is expecting to only rebut matters presented by others; this disclosure has been provided before expert reports were due from interveners, and Dr. Pohl reserves the right to review and provide any testimony upon review of such reports.
 - ii. A copy of Mr. Van Maanen's CV is attached hereto as Exhibit SDPPC 2.

SDPPC further reserves the right to call other witnesses named by any other party and to name additional witnesses prior to or at the hearing as necessitated by the testimony and evidence presented during the hearing on the matter.

Dated: AUGUST 29, 2016.

DONAHOE LAW FIRM, P.C.



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**SOUTH DAKOTA PORK
PRODUCERS COUNCIL'S
EXHIBIT LIST**

The South Dakota Pork Producers Council, a South Dakota non-profit corporation, and through its undersigned attorney, as required by the Scheduling Order previously entered in the above referenced matter, provides the following list of exhibits that South Dakota Pork Producers Council may seek to introduce into evidence in its case.

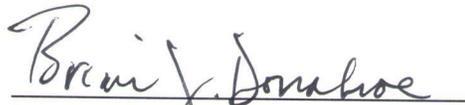
EXHIBIT #	DESCRIPTION	Off.	Obj.	Rec.
SDPPC 1	CV - Stephen Pohl, PhD			
SDPPC 2	CV - Todd Van Maanen, P.E.			
SDPPC 3	SDDENR General CAAFO Website Page			
SDPPC 4	SDDENR Producer Info - Wet Weather Manure Management Practices			

The South Dakota Pork Producers Council reserves the right to propose additional exhibits at the hearing should the need arise, and further reserves the

right to offer any exhibits identified by any other party. This includes additional rebuttal evidence or the use of any evidence in rebuttal when not offered in a case-in-chief.

Dated: AUGUST 29, 2016.

DONAHOE LAW FIRM, P.C.

A handwritten signature in cursive script that reads "Brian J. Donahoe". The signature is written in black ink and is positioned above a horizontal line.

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Stephen Pohl

Professor (Retired) – SDSU

Education

- Ph.D.—University of Nebraska, Lincoln
 - Biological Systems Engineering, 2000
- M.S.—South Dakota State University
 - Agricultural Engineering, 1975
- B.S.—South Dakota State University
 - Agricultural Engineering, 1973

Academic Teaching

- AST 423 Rural Structures
- Guest Speaker for Swine and Dairy Classes

Professional Organizations

- [American Society of Agricultural Engineers](#)
- [Midwest Plan Service](#)
- Minnkota-Agribuilders and Association

Extension

- Livestock Production Systems
- Livestock Production Systems Planning
- Agricultural Structures
- Ventilation Systems Design
- Manure Storage Systems
- Farmstead Planning

Innovative Page Programming

- Dairy

- Beef
- Swine
- Sheep

Awards and Honors

- 1998 American Society of Agricultural Engineers Blue Ribbon
- Award for Midwest Plan's Swine Nursery Facilities Handbook
- 1997 South Dakota Honorary Master Pork Producer
- 1994 Dedicated and Distinguishes Service Award to the swine industry of South Dakota, South Dakota Pork Producers Council
- 1994 Distinguished Achievement in Extension, SDSU Agricultural Engineering Department
- 1993 Extension Specialist Association Distinguished Service Award
- 1991 Gamma Sigma Delta Extension Award

Other Responsibilities

- Chair of the Midwest Plan Service Executive Committee
- Co-authoring revised Pork Industry Handbook Fact Sheet Space Requirements for Swine
- Trained Land O' Lakes Farmland employees covering the principals of ventilation and genetic potential of growing and finishing swine. Fall 2001

Publication

- Environmental Effects on Growing Swine Performance, SDSU Swine Research Report 2001
- Thermal Environmental Effects and Group Size on Growing Swine immune Status, SDSU Swine Research Report 2001
- Scan-Air™: The air quality evaluation kit, International Winter Meeting of the American Society of Agricultural Engineers, St. Joseph, MI.
- Scan-Air™ Handbook: "The users guide to hands-on air management", Rural Technologies, Brookings, SD

- Electronic environmental monitoring equipment for swine production facilities, National Pork Producers Council, Des Moines, IA. Unpublished Report.
- Swine Nursery Facility Handbook, 1st Edition, Midwest Plan Service, Iowa State University. Ames, IA.
- Remodeling ideas for farrowing facilities, Pork Industry Handbook. Purdue University. West Lafayette, IN.
- Troubleshooting swine ventilation systems. Pork Industry Handbook. Purdue University. West Lafayette, IN.
- Environmental effects on growing swine performance and immune status with comparisons between predicted and actual growth. Unpublished dissertation. University of Nebraska-Lincoln. Lincoln, NE.
- Thermal environmental effects and group size on growing swine performance. American Association of Swine Practitioners Annual Meeting. St. Louis, MO.
- Scan-Air™, The hands-on air management kit. Proceeding of the 27th Annual Meeting of the Association of Swine Practitioners. Des Moines, IA. pp 63-64.
- Reversing hairpin gutters: what's the problem? Pork 94.
- Remodel your breeding facility for productivity. Pork 94.
- The perils of pit ventilation. Pork 94.
- Remodeling an MOF: is it worth it? Pork 94.
- Your swine operation: is it time for a checkup? Pork 95.
- Converting from farrowing house to nursery. Pork 95.
- Troubleshooting your ventilation woes. Pork 95.
- Facility tips to improve sow productivity. Pork 95.
- Key Building design considerations for new and remodeled swine buildings. Proceedings: Making Swine Buildings a Safer Place to Work. National Pork Producers Council. Des Moines, IA. pp 118-134.

TODD VAN MAANEN, P.E.**Project Engineer; Stockwell Engineers**

Professional Registration Professional Engineer: South Dakota, Nebraska, Iowa, Missouri, Kansas, Wyoming, Minnesota, North Dakota, Colorado

Education B.S., Civil Engineering, University of Wyoming, 1985
B.T., Construction Management, University of Northern Iowa, 1981

Relevant Experience Mr. Van Maanen's educational background and varied work experience affords clients a solid multi-disciplined insight to project design. He has worked in South Dakota, Iowa, Missouri, Wyoming, Minnesota and Nebraska in varying capacities both in the engineering and construction industries. He has also managed the design of Concentrated Animal Feeding Operations facilities in Ukraine and China. His experience has included project design and administration, management of a satellite consulting engineering office, development and maintenance of client relationships, professional client representation at zoning and board meetings, interaction with State regulatory agencies, and report/grant writing.

Mr. Van Maanen has over thirty-four years of post educational experience, including twenty-eight as a Project Manager. He has served as Manager of Engineering Services for twenty years at Eisenbraun and Associates, supervising the firm's staff of civil and agricultural engineers and technicians. Currently, serving as a Project Engineer specializing in Concentrated Animal Feeding Operations (CAFO) design and permitting for Stockwell Engineers in Yankton, SD.

Mr. Van Maanen's experience includes municipal engineering, transportation projects, and water/wastewater projects for many Nebraska, Iowa and South Dakota communities. Over the past twenty years he has developed extensive experience in the environmental permitting and design of CAFO systems. He has been involved in the permitting and design of over 150 swine facilities throughout South Dakota, Nebraska, Missouri, Minnesota and Iowa. Todd is a graduate of Class III of South Dakota Ag and Rural Leadership, Inc. (SDARL) and was awarded the honor of Honorary Master Pork Producer from the South Dakota Pork Producers Council.



≡ SubMenu

Concentrated Animal Feeding Operations (CAFO)

Reissuance of the *General Water Pollution Control Permit for Concentrated Animal Feeding Operations*

A contested case hearing to reissue the *General Water Pollution Control Permit for Concentrated Animal Feeding Operations* has been rescheduled to be held September 27-29 in Pierre. The contested case hearing will be held at 10:00 am in the Matthew Training Center in the Joe Foss Building, 523 East Capitol Avenue, Pierre. DENR Secretary Steve Pirner will serve as the hearing chair. The hearing was initially scheduled to be held Dec. 16, 2015, but was continued when one of the intervening parties, Dakota Rural Action, filed a motion on Dec. 8, 2015, requesting more time to prepare for the hearing. Petitions to intervene that were filed by the Nov. 20, 2015, deadline have been granted.

The public notice for reissuing the general permit, the draft permit, and the Statement of Basis will remain on the department's [One Stop Public Notice Website](#) until the permit is reissued.

Prior to DENR's formal public notice, information was presented on a draft of the proposed permit on September 17, 2015. At the request of some of those attending the meeting, parties had until September 28, 2015, to submit informal comments. After the preliminary draft meeting, changes were made to the general permit prior to the public notice to include additional information provided by interested parties.

- [Public Noticed Draft Permit](#)
- [Permit Presented at Preliminary Meeting](#)
- [Meeting Presentation](#)
- [Meeting Video Link](#)
- [Response to Informal/Preliminary Comments](#)

In South Dakota, concentrated animal feeding operations are regulated by a water pollution control permit. One of the permit requirements is that producers submit the plans for their manure management system. The plans and specifications for their system must meet Department of Environment and Natural Resources design requirements and be approved by a department

engineer. For more information, contact [Kent Woodmansey](#) with the [Feedlot Permit Program](#) at (605) 773-3351.

The department has developed tools to assist producers in understanding the permitting process, selecting a good location for a new operation, and to answer common questions about the general permit. The department maintains a [list of consultants](#) who have indicated they provide engineering and/or geotechnical services related to the design of manure management systems. The department also maintains a [list of crop consultants](#) that can assist producers with preparing initial and annual nutrient management plans.

General Permit for Concentrated Animal Feeding Operations and an application form for obtaining coverage under the permit. [View and Print](#) or [Complete Online and Print](#)

[Information for New and Expanding CAFOs](#)

[Environmental Training for Livestock Producers](#)

[Nutrient Management/Manure Management Tools](#)

[CAFO FAQ's](#)

[How to file a CAFO complaint](#)

[DENR's CAFO Rules](#)

[Wet Weather Management Information](#)

[Other Educational Materials](#)

[EPA'S CAFO Rules-Notice: Clicking here will take you to EPA's website](#)

Should you have any questions, contact [Kent Woodmansey](#) at (605) 773-3351.



Dennis Daugaard, Governor

Steven M. Pirner, P.E., Department Secretary

Vicki Murray, Executive Assistant

605.773.5559 - fax 605.773.6035

Email SD DENR

Division of Environmental Services

Air Quality

Drinking Water

Feedlot Permit

Ground Water Quality

Minerals & Mining

Surface Water Quality

Waste Management

Water Rights

Division of Financial & Technical Assistance

Geological Survey

Petroleum Release Compensation Fund

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**WET WEATHER MANURE MANAGEMENT SYSTEM
MANAGEMENT PRACTICES
March 2011**

With the amount of snow we have received this winter, now is the time to review the following management practices that can be used to help prevent a discharge or flooding of your system. You may want to put this in your Producer Handbook for future reference.

1. Continue to keep the records required by the general permit that show you are properly operating and maintaining your manure management system. During periods of unusual weather, it is particularly important to be diligent about keeping complete records of precipitation (if applicable), holding pond levels, and land application of manure.
2. If your system includes open lots, ensure that snow is removed from your lots and sediment basins to minimize runoff into holding pond(s). To allow for normal winter operation in open lots, the general permit allows snow containing some manure removed from the concentrated animal feeding operation be land applied on land with slopes less than 4%. A minimum of a 100-foot buffer zone shall be maintained to any natural or manmade drainage. The department recommends producers follow the NRCS 590 Nutrient Management standard requirement that allows no more than 10% of the annual solid manure production to be applied in the winter.
3. Inspect any clean water diversions in your system to ensure they are able to divert clean water away from your manure management system. You may need to remove snow from your clean water diversions to ensure they work properly.
4. If a sediment basin or holding pond berm is adjacent to a stream, creek, or drainage, begin observing it and if necessary, and if possible, take steps to ensure flow in the drainage will not be blocked by snow or ice, or damage or flood your system.
5. Review the fields in your approved nutrient management plan to identify fields you may want to land apply to in the spring. If you need to add fields to your approved nutrient management plan that may be drier and to give you more flexibility, now is the time to submit the information to add these new fields to your nutrient management plan. To add a field, please review the requirements at <http://denr.sd.gov/des/sw/FieldAdditions.aspx> or contact the department. Fields must be in your approved plan prior to land application.
6. Application to frozen or saturated soils is preferable to allowing a holding pond to overflow. Process wastewater or manure shall not be spray irrigated on frozen ground. If application to frozen or snow-covered ground is absolutely necessary, the producer should notify the department prior to application so the department may review buffer zone requirements with the producer and respond to inquiries from the public. The producer shall only apply liquid manure or process wastewater on land with slopes less than 4%. The producer shall also maintain a minimum of a 100-foot buffer zone to any natural or manmade drainage. It is recommended application occur to vegetated fields or high levels of crop residue instead of bare soil. Incorporation is required on bare soil and may not be possible due to moisture conditions.
7. Be vigilant watching application to minimize the potential for runoff into a creek or stream or onto a neighbor's property. Regularly observe points of potential runoff around the perimeter of the land application area so runoff during land application does not occur. You may want to disk around application areas to create a buffer area where runoff is more likely to infiltrate, or build a dike/terrace around fields to prevent runoff, or apply manure at less than the calculated manure application rate to ensure no runoff occurs.
8. Ensure your pumping equipment is in good working order, and communicate with neighbors, county emergency managers, and water development districts so all know your holding pond location, current flooding conditions, and that you may need to locate pumping equipment.
9. If a discharge from the manure management system or a discharge during land application of manure does occur, you must contact the department as soon as possible and within 24-hours by calling (605) 773-3351. If after normal business hours (8:00 a.m. to 5:00 p.m. Central time on Monday through Friday), you shall report the discharge by calling (605) 773-3231. You must also take immediate steps to stop the discharge and clean up the manure or wastewater, if possible. Anyone downstream that may be impacted by the discharge shall be notified. It is recommended you also contact your county emergency manager. Be prepared to submit a written description of the discharge event and steps taken to minimize effects of the discharge. You will be required to submit your weekly inspection logs showing ponds levels for the past year and precipitation records.

If you have any questions on the requirements of the general permit or would like to discuss options that you may have, contact DENR at (605) 773-3351.