

## **Mahaffie, Mike (DNREC)**

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**From:** Keith Steck <steckke@gmail.com>  
**Sent:** Saturday, November 30, 2019 4:27 PM  
**To:** Vest, Lisa A. (DNREC)  
**Subject:** Final Comments on DNREC Hearing Regarding Clean Delaware Permit Request  
**Attachments:** 2019 Nov 30--Steck Additional Comments on Clean DE Request AGU 1702-S-03.pdf

Hi Ms. Vest

I hope you had the opportunity to enjoy a good Thanksgiving. We all have much to be thankful for, including the opportunity to participate in government decision-making. In that vein, I have attached final comments regarding the pending Clean Delaware request regarding AGU 1702-S-03.

I would appreciate your acknowledgment that you received and were able to open the attached file.

Best regards,  
Keith Steck

Additional Comments on Nov. 20, 2019, DNREC Permit Hearing  
Clean Delaware Request per AGU 1702-S-03  
Keith Steck, Milton (Nov. 30, 2019)

Below are comments regarding the Clean Delaware request to amend/renew existing Agricultural Utilization (AGU) permit AGU 1702-S-03. These comments supplement my oral comments made at the Nov. 20, 2019, hearing at the H.O. Brittingham Elementary School.

General Comments

It's very difficult to comment on this permit because certain information has not been provided as part of this permit application or provided at the hearing or prior to it. Moreover, other information has been withheld or denied being made available. For example, there is no publicly provided information regarding details of past inspection results, violations, or fines and/or penalties related to the three individual sites at the heart of this permit. Further, there is no history provided to the public regarding the history of these sites with respect to how many years has septage, sludge, portable toilet waste, and other waste/compounds been applied to each site covered by this site. Similarly, there is no information about the company's operations over the past 20 years regarding the three sites covered by the existing and proposed permit AND and other sites operated by Clean Delaware LLC and its predecessor, including previously operated sites that are now closed and why they were closed. In addition, there is no indication of the changes in volume of waste by type such as septage, sludge, etc. or in aggregate over the past 20 years and projected changes in volume application over the next 10 years at these three sites. This lack of information, particularly regarding volumes and company history regarding inspections and violations, provides essentially no context from which to make comments and therefore makes it extremely difficult for the public to provide comments.

Further, there is almost no information about the areas surrounding the three sites. Specifically, although the slide presentation at the November 20 hearing included brief mention of buffers and setbacks regarding homes, streams, and roadways in slides 23, 25, and 26, there is essentially no text or discussion about communities, other developments, commercial properties, creeks, waterways, or other environmentally sensitive lands--including The Nature Conservancy lands adjoining some of these sites. As with my comments above about the lack of context, I do not know how members of the public or others can provide salient comments

without knowing the location of relevant waterways such as Ingram Branch, existing communities such as the Russell Collins Slim community on the eastern edge of the Milton site and the town of Harbeson and communities on the edge of the Ellendale/New Market site. Further, it is imperative that DNREC and others look at the pending development plans for the surrounding sites, as well as the impact the pending Artesian spray field operation north of Milton will have on the Milton Clean Delaware site. Not including such residential, environmental, and commercial information is a gross failure on DNREC's part.

#### Specific Comments on Draft Permit

I do not see any kind of economic or environmental analyses included in the permit application and draft permit. This failure to provide any analytical discussion regarding real or potential economic or environmental impacts is a serious deficiency in this and other similar permits. For example, although pages 3 through 5 include site maps and descriptions of the sites themselves, they do not provide any discussion of the immediate surrounding areas relative to residential communities, ecological features such as Ingram Branch, and commercial development. There is also no discussion of the loss of real estate value for homes in the Russell Collins Slim community on the edge of the Milton site as a consequence of water contamination acknowledged by Clean Delaware.

Similarly, although the draft permit mentions setback distances in two charts on page 10, there is no geographical reference to creeks, ponds, and other waterways, most notably Ingram Branch, and the lands owned by The Nature Conservancy and its threatened and other at-risk flora and fauna adjoining the sites. There are no maps reflecting the setbacks for the specific sites, something that should be included in the permit for easy and definitive reference.

Further, there is no discussion of the hydrology of the area, including the aquifer and any analysis regarding the potential impact of the spray fields on the aquifer. Given the increased nitrate test results of area drinking wells above the 10 mg/liter level EPA considers "safe," an analysis or recognition of this should be noted in the permit and factored into testing plans.

Regarding crops, the draft permit makes reference to the Nutrient Management Plan (NMP) and the Plant Available Nitrogen (PAN) crop requirement on page 7, there is no discussion of

exactly what crops will be grown. I don't understand how a permit that involves plans for growing crops does not identify specific crops to be grown or at least categories of crops; simply making reference to harvesting food and feed crops on page 9 is not sufficient. Relatedly, there is no discussion of who is actually growing or will be growing and harvesting the crops--Clean Delaware or a proxy agent such as a tenant farmer. If Clean Delaware... or its surrogate... is growing crops, then the permit should disclose that along with whether wheat, corn, soy beans, hay, sorghum, or other grain crop or other type of crop is going to be grown, given the crop will determine the uptake of nitrogen and other nutrients.

There should also be a discussion of what restrictions and prohibitions there are as to when septage, sludge, and other wastes can be applied. For example, if no spraying can be done when the ground is frozen, wind speeds exceed 10 or 15 MPH, depending on gusts; or no cover crop is planted or has emerged then the permit needs to specify these and other restrictions or prohibitions. Although the draft permit discusses an anemometer and windsock are to be placed at the Milton Farm at all times--see page 11, it is moot as to whether there are other restrictions at this location. Further, nowhere does the draft permit discuss these issues relative to the Ellendale/New Market and Harbeson sites; if there are none, the permit should state this rather than leave the public guessing or speculating. Moreover, this paragraph does not annotate with footnotes or a full description of how the permittee is to ensure aerosols are not carried beyond the Milton site; if DNREC has specific best practices or other means in mind, it should either explain or cite the source(s)--such as EPA guidance in the permit or by footnote.

With respect to contaminants, including heavy metals, the draft permit seems to be inaccurate or inconsistent across the various lists and charts in Part I Section B--pages 12 through 17--relative to those listed on page 11 and their values. For example, page 11 lists 11 heavy metals and PCBs and their limits per kilogram, yet the lists/charts at B.1. and B.3. do not list PCBs. Further, I do not understand the inconsistency in the frequency of testing for these compounds across Section B; why is minimum frequency set to be done annually for the lime stabilized septage but tested minimally every 5 years for other stabilized sludges and wastes? Given the lack of test result data available to the public but known contaminants in sludge, septage that contains household products and medical residue including heavy metals, and the like as well as the contamination of drinking wells in areas where spray fields--including Clean Delaware's--have and continue to operate, the testing should continue to be annually at a

minimum until sufficient research prove a 5-year cycle is sufficient. Moreover, given that lead is listed as one of the wastes in B.3. and its harmful developmental impact on children and harm to immuno-compromised individuals as documented in Flint, Michigan, and other locations, annual testing should continue. Putting individuals who may be exposed through contaminated drinking water at risk because Clean Delaware wants to save a few dollars is hardly a fair and equitable trade-off, especially in a state consistently ranked as having one of the worst incidents of cancer and other health problems.

Finally, testing results should be part of the public domain and be maintained in an easily accessible electronic format. They should be stored in a publicly accessible database and state website. There is no reason tests results--regardless of what they show--should not be readily available to the public. The failure to make such information publicly available is a gross distortion of the right to public access to information and violates the spirit of Delaware's Freedom of Information Act and the state government's responsibility to keep its citizenry safe and well-informed.