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Phat Chix Poultry, LLC
draft Permit to Install and draft Permit to Operate
February 20, 2018

The first draft Permit to Install and a draft Permit to Operate was issued and a public notice, requesting public comments along with the date and location of a public meeting, was published on the Ohio Department of Agriculture's website and in *The Canton Repository* on August 23, 2017. A pre-set date and location for the public meeting was included in the draft public notice at the Phat Chix Poultry, LLC owner's request. That meeting was postponed due to requested modification to the permit application. Once modifications were made, a second public notice, requesting public comments along with the date and location of this public meeting was published on the Ohio Department of Agriculture's website and in *The Canton Repository* on January 16, 2018. Again a pre-set date and location for the public meeting was included in the public notice at the owner's request.

The Director's final decision on the draft permit must be made in accordance with the laws regulating and facts contained in the permits. According to rule 901:10-6-04 of the Ohio Administrative Code, persons, including applicants, who believe any condition of a draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public meeting). Ohio Revised Code Section 903.09 states that the Director is to hear comments pertinent to the draft permits. The Ohio Department of Agriculture considers pertinent comments to be comments relating to the draft permit and the way in which the draft permit complies with the ODA rules. Public comments also need to relate to issues under the regulatory control of the Director of Agriculture. The Ohio General Assembly has not given the Director of Agriculture unlimited control. The permits cover environmental issues pertaining to water pollution control such as siting, geological explorations, facility design, construction, water quality and quantity, manure management, containment of stormwater runoff, insect and rodent control, mortality, and emergency response.

Comments about large-scale farming in Ohio, about other farms in Ohio, or other permits will not be considered as comments that pertain to these draft permits. Comments about roads, taxes, property values, and air quality are not under the regulatory control of the Director of Agriculture and will not be considered as comments that pertain to these draft permits.



No.	Date Received	Name	Organization, if any	City, State
1	2/20/2018	John David		Navarre, OH
2	2/20/2018	Janice David		Navarre, OH
3	2/20/2018	Alan R. Boyd		Navarre, OH
4	2/20/2018	Megan Shoenfelt		Navarre, OH
5	2/20/2018	Susan Thomas		Navarre, OH
6	2/24/2018	Don and Donna Fulton		Via email
7	2/27/2018	Ronda Alexander		Via email
8	2/27/2018	Lori Link		Via email

Similar comments are grouped.

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1. Siting Criteria and Setbacks

a. *Originally, it was proposed to be 100 feet from all of our properties, 500 feet from our houses. Yea, that's way too close. I don't think this is in the same boat as having 30, 40 or 50 cows.*

b. *The neighbors, the location of nearby homes should be the number one*

consideration when evaluating the potential location for a poultry facility.

- c. Good neighbors can quickly become enemies, if the building site is too close.*
- d. This is primarily a residential area and has no business considering a chicken farm. This type of farm is better suited out in the country far away from residential property.*
- e. In my opinion there is not enough acreage to ensure the negative effects of this operation will not have serious negative effects on the surrounding homes. After researching other concentrated feeding facilities in Stark County this location borders more homes than any of the others I have seen. It is far too close to so many homes.*
- f. I am all for advancing but not in an area that is so close to other homes.*

Response: Minimum setback distance for a proposed manure storage structure from a neighboring residence is established in OAC 901:10-2-02(L). The proposed solid manure storage structures at the site would exceed the minimum required setback distance of 500 feet from a neighboring residence. This is also located in an agricultural area. Additional requirements or prohibitions could be required if it was proposed in a municipality.

2. Odor Concerns

- a. I've been around farms my whole life. We like the smells. We even like the dairy smells that are out there. But, when this chicken farm became proposed, this isn't a normal farming operation. This is 165,000 chickens.*
- b. We also realize that having one of these farms this close, not just the visual look, because it is back in the woods, but the smell. Again, our homes, Allan's home is probably 600 feet away from the farm. The farthest, is probably 1,000 feet. The smell is going to be there for a long time.*
- c. I guess the first thing that really bothers me is that this is directly behind my house. Directly. When I look out my kitchen window, I am going to see it. And am I going to get that smell? Is it going to be that bad? I have a 16 x 32 in ground pool. Does that mean I will be able to use it this year, next year? I mean can we go out there?*
- d. Prevailing winds and weather, is there going to be odor settling down in the back, going down by Cathy and I? Absolutely. What are their plans for remediation and for odor control planning? One pine tree in front of an exhaust fan isn't going to cut it. But yea, absolutely, there is going to be odor.*
- e. I myself was raised on a dairy farm and understand what goes with that but this is 165,000 birds and this family already spreads manure on the fields from their cows. I believe they will do the same with the chicken manure and add to the*

smell. We live in an older home this is not equipped with central air and open the windows in the spring, summer and fall months to help in cooling our home and with the smell that will generate from this operation we will not be able to do this.

Response: There are not specific laws pertaining to odors. In fact, in agricultural areas, dust, noise and odors are specifically exempted from nuisance laws; however, odor minimization is required under OAC Chapter 901:10 and the conditions of the PTI and PTO. In the Manure Management Plan of the draft PTO, Phat Chix Poultry, LLC has identified specific BMPs listed in OAC 901:10-2-12 to minimize odor. The facility will remove and land apply manure when wind direction is less likely to affect neighboring residences. Odor is something that will be evaluated during routine ODA inspections and complaint investigations. Inspectors would determine if the permit was being followed and if the odor was occurring as a result of the producer not following Best Management Practices. If the permits are not followed, the farm could be subject to an ODA enforcement action.

3. Fly/rodent/pest Concerns

- a. *And you talk about the manure that is going to be stored there. Is there going to be rodents? Are these rodents going to be coming down over the hill to my house?*
- b. *Is there going to be all kinds of flies? And you talk about the manure that is going to be stored there. Is there going to be rodents? Are these rodents going to be coming down over the hill to my house?*
- c. *The questions that I have have to do with seeing how inefficiently it was dealt with twenty-five years ago and I know that animal issue has changed and I do know what when you raised the questions about flies, absolutely you have to have management right on top of it to control flies.*
- d. *And the one thing that I am really concerned about is the flies. Now, I want to read a little something that was published by the Ohio Department of Health on 3/2/2013. "Poultry facilities are a source of odor and attract flies, rodents and other pests that create local nuisances that carry disease. Odor emissions caused by a large number of contributing compounds including ammonia, volatile organic compounds and hydrogen sulfide from poultry farms adversely affect the life of people living in the vicinity. Flies are additional concerns for residents living near poultry facilities. Research conducted by the Ohio Department of Health indicated that residents that were located in close proximity facilities, that's within a half, I'm sorry, a mile, had 80 times the average number of flies and mosquitoes which can transmit disease such as cholera, dysentery, typhoid, malaria and dengue fever" Their presence is mainly related to the animal management and the carcass loses.*
- e. *The wind shed area will have serious negative effects as well as flies and rodents.*

- f. *I am a resident that lives within a mile of the proposed chicken farm and am also very concerned with not only the smell that it will bring to the area but the unwanted coyotes and other rodents. I also have dogs that I am concerned with the increased coyotes that this will attract to the area.*

Response: The Insect and Rodent Control Plan is required in order to minimize the presence and negative effects of insects and rodents at the farm and in surrounding areas, including land on which the solid manure may be stockpiled or applied. The Insect and Rodent Control Plan (IRCP) shall comply with the requirements in OAC 901:10-2-19 and shall be incorporated into the Permit to Operate. The IRCP is developed to minimize areas of insect and rodent habitat, regular housekeeping practices, monitoring and treatment of insect and rodent activity and emergency treatment if activity reaches excessive levels. Regular ODA inspections include noting the effectiveness of the Insect and Rodent Control Plan and ODA will respond to any valid complaints in regards to insect or rodent activity around Phat Chix Poultry, LLC.

4. Compliance Information

- a. *And again, we know people that operate these farms. They are good farmers and even they have problems. We just don't feel that Mr. Fortner has the track history of being able to operate this effectively.*
- b. *It is also my opinion that the operation will not be run to comply with all of the regulations. I base this on my past experience with Mr. Fortner's dairy business.*

Response: ORC 903.05(A) states that any Permit to Install or Permit to Operate application submitted by an applicant that has not owned or operated a concentrated animal feeding facility in Ohio for at least two of the five years immediately preceding the submission of that application must include the following: (1) a list of all animal feeding facilities in Ohio that the applicant or any person identified by the applicant owns, has owned, has operated or is operating; (2) a list of all animal feeding facilities located in another state or country that is regulated under the Federal Water Pollution Control Act and that the applicant or any person identified by the applicant owns, has owned, has operated or is operating; and (3) a list of all administrative enforcement orders, civil actions with a liability finding, and all criminal actions with a finding of guilt related to Federal Water Pollution Control Act, Safe Drinking Water Act, or any other applicable state or foreign laws pertaining to environmental protection at an animal feeding facility owned or operated by the applicant or any person identified by the applicant during the five years immediately preceding the submission of the application.

The permit application for Phat Chix Poultry, LLC listed the Craig E Fortner Revocable Trust as the facility owner and Phat Chix Poultry LLC as the facility owner. Subsequently Phat Chix Poultry LLC listed Craig Fortner as the sole member. The required Compliance Information forms were submitted in accordance with ORC 903.05. No previous environmental violations were listed in those Compliance Information forms nor was any enforcement action found during ODA's subsequent follow up with the Ohio

Environmental Protection Agency, ODA Division of Animal Health, or the Stark County Soil and Water Conservation District.

ODA may deny a Permit to Install or Permit to Operate application if the applicant or any person identified by the applicant have a history of substantial noncompliance with the Federal Water Pollution Control Act, the Safe Drinking Water Act, or any other applicable state or foreign laws pertaining to environmental protection that would indicate that the applicant or any person identified by the applicant lack a sufficient degree of reliability, expertise, and competence to operate the facility in substantial compliance with ORC Chapter 903 or the rules promulgated thereunder. ORC 903.05(B) (emphasis added).

Based on the information received from the Ohio Environmental Protection Agency, Stark Soil and Water Conservation District, and ODA Division of Animal Health, no finding of substantial noncompliance was found.

5. **Facility Discharge/Runoff**

- a. *Is there going to be runoff? Since is it going to be right up there on the plateau is the going to be runoff coming down and go right into the stream right there that goes behind my house?*
- b. *So you talk about somebody coming into a community and imposing this on the neighbors who have been there, it's like they have to have some pretty sharp answers and really accountability and management. Runoff? Absolutely.*

Response: ODA Rules do not allow any runoff to leave a facility that has come into contact with manure. Manure will be stored inside a roofed storage structure with concrete floor and walls to prevent rainfall from coming into contact with manure. ODA staff will conduct regular inspections to verify that facility best management practices and housekeeping measures are in place and being properly followed to prevent the possibility of any contaminated runoff from leaving the facility.

6. **Mortality Management**

- a. *And absolutely, morality. Are they going to be burying it? Are they going to be composting?... The fly issue with that.*

Response: A detailed Mortality Management Plan is required as part of a Permit to Operate that details the best management practices that will be used to dispose of dead livestock. Phat Chix Poultry, LLC proposes to utilize on-site composting to dispose of poultry mortality losses under a covered roof. Composting mortality must be properly covered with sawdust or other carbon source to prevent fly issues. For dairy cow mortality losses, the facility proposes to utilize a licensed rendering service.

7. **Manure Management**

- a. *So five years from now will they be giving the manure away? Are they going to be*

selling it to the neighbors? How much agriculture production is going to allow that where you are not going to have the phosphorus build-up in the soil and the runoff in five years? How are they going to address that? That all has to be shipped away. They think it is all just going to be assumed by the community. That is false. There is not enough manure to be added to the soil to take up those nutrients in a way that is going to prevent runoff and erosion control and that sort of thing. It is just not going to happen.

Response: A detailed Manure Management Plan is required as part of a Permit to Operate that details how the facility will utilize manure nutrients generated at the facility. Phat Chix Poultry, LLC proposes to land apply about 188,000 gallons of liquid dairy manure each year on 66 acres of hay ground. All of the solid poultry manure will be distributed to and utilized by others as allowed and described in OAC 901:10-2-11. This chapter of the Ohio Administrative Code allows a facility to use distribution and utilization methods to sell manure to area farmers to replace commercial fertilizers needed to maintain soil fertility. The facility estimates that the nutrients in the poultry manure could be used to replenish the nutrients removed on 1,180 acres of crop land in a corn and soybean rotation.

8. Topics That Received No Response

ODA does not have complete control over all aspects of livestock permitting in Ohio. The legislature has not given the Division of Livestock Environmental Permitting unlimited power. The areas that the Division has been given authority over are very limited and are covered under the PTI and PTO. The Division has not been given any statutory authority to regulate many of the areas of concern to communities such as infrastructure, air quality and quality of life. Determining the areas that should be regulated for agriculture is a decision of the legislature and not of the ODA.

The subjects in the following list are either not regulated by the Division of Livestock Environmental Permitting or are not specific to the draft permits:

- a. Neighbor Relations
- b. Property Values
- c. Air Quality
- d. Traffic Concerns