

ADEQ

ARKANSAS
Department of Environmental Quality

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (91 7199 9991 7035 3563 0499)

MAR 09 2016

Ellis Campbell
EC Farms
P.O. Box 52
Vendor, AR 72683

RE: Permit Number 3540-WR-7; AFIN 51-00020

Dear Mr. Campbell:

Enclosed are the draft public notice, Statement of Basis, and a copy of the draft permit which the Arkansas Department of Environmental Quality prepared under the authority of the Arkansas Water and Air Pollution Control Act. A copy of the final permit will be mailed to you when the Department has made a final permitting decision.

The enclosed public notice will be published by ADEQ in the newspaper of general circulation. An invoice for the cost of publishing the public notice and proof of publication will be sent to you by the advertising newspaper. The permittee must send proof of publication and payment to the address below as soon as possible but no later than 30 days after its publication. Until this Department receives proof of publication of the public notice, no further action will be taken on the issuance of your no-discharge permit.

Comments must be received at ADEQ prior to the close of the public comment period as described in the enclosed public notice. The public comment period will begin on the day of publication and will end 30 days after that date. Once a final permit is issued by the Director and becomes effective, the permittee must comply with all terms and conditions of the permit, or be subject to enforcement actions for any instances of noncompliance during the duration of the permit. Consequently, it is imperative that you, as the applicant, thoroughly review the enclosed documentation for accuracy, applicability, and your ability to comply with all conditions therein.

For a list of changes, please see Item No. 4 of the enclosed Statement of Basis.

Should you have any questions concerning any part of the permit, please feel free to contact Katherine McWilliams of the Permits Branch at (501) 682-0651.

Sincerely,



Caleb J. Osborne
Associate Director, Office of Water Quality

CJO:km

Enclosure

PUBLIC NOTICE OF DRAFT MODIFICATION NO-DISCHARGE PERMIT
PERMIT NUMBER 3540-WR-7
AFIN 51-00020

This is to give notice that the Arkansas Department of Environmental Quality (ADEQ) Office of Water Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317 at telephone number (501) 682-0648, proposes a draft modification of the permit for which an application was received on August 5, 2015, with additional information received August 17, 2015, September 16, 2015, and December 10, 2015 for the following applicant under the Arkansas Water and Air Pollution Control Act.

Applicant: Ellis Campbell, P.O. Box 52, Vendor, AR 72683. The land application sites are on numerous farm fields in Newton County. For a more detailed description of the locations for each land application site, refer to Part II of the draft permit or the site management plan. These documents may be accessed by searching the permit number listed above at the following website:

<http://www.adeq.state.ar.us/home/pdssql/pds.aspx>

The permit is being modified to convert from storage and land application of swine waste from EC Farms to only land application of swine waste from C&H Hog Farms, Inc. in accordance with APC&EC Reg. 5.601.

ADEQ's contact person for submitting written comments, requesting information regarding the draft permit, or obtaining a copy of the permit and the Statement of Basis is Katherine McWilliams, at the above address and telephone number, or at Water-Draft-Permit-Comment@adeq.state.ar.us. For those with internet access, a copy of the proposed draft permit may be found on the ADEQ's website at www.adeq.state.ar.us.

Public Meeting and Hearing

A public meeting and hearing will be held April 11, 2016 beginning at 6:00 p.m. Central Time at the Jasper School District Cafetorium, 600 School Street, in Jasper, AR in Newton County to accept comments on the draft permit. Written and oral statements may be submitted regarding the draft permit to the Hearing Officer for consideration at the Public Hearing. No additional public comments will be accepted upon adjourning the Public Hearing. Enter the school building at the clock tower. In the event of inclement weather or other unforeseen circumstances, a decision may be made to postpone the hearing. If the hearing is postponed and rescheduled, a new legal notice will be published to announce the details of the new hearing date and comment period.

The deadline for submitting written comments on the proposal prior to the April 11, 2016, public hearing is 4:30 p.m. (Central Time) April 8, 2016. The comment period will be re-opened at the hearing for oral and written comments, but will close when the hearing adjourns.

Comments and public hearing procedures may be found at Regulation No. 8 (Administrative Procedures). All persons, including the permittee, who wish to comment on ADEQ's draft decision to modify the permit must submit written comments to ADEQ, along with their name and mailing address. After the public comment period and public hearing, ADEQ will issue a final permitting decision. ADEQ will notify the applicant and each person who has submitted written comments or requested notice of the final permitting decision. Any interested person who has submitted comments may appeal a final decision by ADEQ in accordance with the Regulation No. 8.

STATEMENT OF BASIS

This Statement of Basis is for information and justification of the permit monitoring requirements as well as other conditions in the permit only and is not enforceable. This draft permit decision is for modification of a no-discharge operation under draft permit number 3540-WR-7 and AFIN 51-00020.

1. Permitting Authority

Arkansas Department of Environmental Quality
Office of Water Quality, Permits Branch
5301 Northshore Dr.
North Little Rock, Arkansas 72118-5317

2. Applicant

Ellis Campbell
EC Farms
P.O. Box 52
Vendor, AR 72683

3. Permit History/ Activity

1. Permit No. 3540-W was issued to Jimmie Lee McCutcheon and effective October 18, 1987 for a sow farrowing operation.
2. Permit No. 3540-WR-1 was not issued.
3. Permit No. 3540-WR-2 was issued to Harl Bohannon dba Bohannon Farm and effective April 21, 1998 for a sow farrowing facility.
4. Permit No. 3540-WR-3 was issued to Harl Bohannon dba Bohannon-Barnard Farm and effective January 29, 1999 for a sow farrowing operation.
5. Permit No. 3540-WR-4 was issued to Richard E. Campbell dba C & C Hog Barn and effective May 23, 2000 for a sow farrowing operation.
6. Permit No. 3540-WR-5 was issued to Richard E. Campbell dba C & C Hog Barn and effective April 1, 2012 for a sow farrowing operation.
7. Permit No. 3540-WR-6 was issued to Ellis Campbell dba EC Farms and effective March 1, 2015 for a permit transfer.

The permittee submitted a permit modification application for a No-Discharge permit, which was received on August 5, 2015, with additional information received August 17, 2015, September 16, 2015, and December 10, 2015. The permit modification is to convert to a land application only permit. Only swine waste received from C&H Hog Farm (Permit Tracking No. ARG590001) will be land applied on sites covered under this permit. The storage components for liquid and solid wastes previously permitted were certified closed by the Natural Resources Conservation Service (NRCS). It is proposed that the current water no-discharge permit be modified.

4. Changes from Previous Permit

- Addition of Condition No. 21 of Part II of the permit for converting permit from storage and land application of swine waste to land application only of swine waste.

- Removed condition in Part II pertaining to animal mortality management.
- Removed condition in Part II pertaining to closure of facility's storage components since storage components were certified closed by NRCS.

5. Facility Location

The land application sites are on numerous farm fields in Newton County. For a more detailed description of the locations for each land application site, refer to Part II of the draft permit or the site management plan. The site management plan may be accessed by searching the permit number at the following website:

<http://www.adeq.state.ar.us/home/pdssql/pds.aspx>

6. Receiving Stream Location

The land application sites are located in Stream Segment 4J of the White River basin and Stream Segment 3H of the Arkansas River basin, which are not in a Nutrient Surplus Area. The surrounding areas were evaluated to determine if any Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waterbodies (ESWs), Natural or Scenic Waterways (NSWs), or waterbodies in the 2008 ADEQ 303(d) list of impaired waterbodies in the State of Arkansas are near the land application sites.

The Buffalo River is the closest waterbody listed as an ERW and NSW to the land application sites located in Stream Segment 4J of the White River Basin. Fields HB1 and HB2 are approximately 29 miles or more from the Buffalo River. Fields VIV1A is approximately 22 miles from the Buffalo River. Field EC-A is approximately 19 miles from the Buffalo River. Fields CCGW, CC1, JG-A, JG-B, DC, and EM1 are approximately 18 miles or more from the Buffalo River. Fields LCM1, LCM2, LCM3, and VIV1 are approximately 15 miles or more from the Buffalo River. Fields RM1 and RM2 are approximately 10.5 miles or more from the Buffalo River. Fields MM1, MM2 and MM4 are approximately 7.4 miles or more from the Buffalo River. Fields RC3, RC4, and PC1 are approximately 8 miles or more from the Buffalo River. Fields CB1 through CB13 are approximately 7.4 miles or more from the Buffalo River. Land application activities at these sites should not impact the Buffalo River due to best management practices and the separation between the sites and the impacted waterbody. Compliance with the terms of this No-Discharge permit is protective of water quality. Additionally, the sites utilize the Phosphorus Index to minimize nutrients from entering waters of the State. Land application will only occur on fields with a P-Index risk value of medium or low.

Field GD1 is approximately 3 miles from Hurricane Creek in Stream Segment 3H of the Arkansas River basin. Hurricane Creek is an ERW and NSW as well as on the 2008 303(d) list of impaired waterbodies for pathogen indicator bacteria from an unknown source. Compliance with the terms of this No-Discharge permit is protective of water quality. Additionally, the sites utilize the Phosphorus Index to minimize nutrients from entering waters of the State. The field has a P-Index risk value of low.

7. Applicant Activity

Under the standard industrial classification (SIC) code 0213 or North American Industry Classification System (NAICS) code 11221, the applicant's activities are the operation of a swine facility; however, this facility is land application only of swine waste from C&H Hog Farm. There are no active waste generation or storage at the facility.

8. Facility Type and Size

This facility operates as land application only in accordance with APC&EC Reg. 5.601. This facility shall only receive swine waste from the facility covered under Permit Tracking No. ARG590001. The facility no longer produces waste or has storage components.

9. Waste Application Method

Liquid swine waste from C&H Hog Farm will be evenly spread over the land application sites using liquid tank trucks (honeywagons). The waste application rates for each land application site are based on the Phosphorus Index (P-Index). Site-specific rates can be found in the Site Management Plan or in Condition No. 8 of Part II for each waste source, Waste Storage Ponds 1 and 2, covered under Permit Tracking No. ARG590001. Only one field recommendation from one waste source (Waste Storage Pond 1 or Waste Storage Pond 2) is to be used per year.

Application Timing for P-Index Risk Assessment

The Phosphorus Index calculations were made for each field for the most restrictive timing window (Nov-Feb), which will allow for land application during all months of the year based on the nutrient uptake found on the land application sites. The time periods used in the Phosphorus Index were developed for the P-Index risk assessment after evaluation of historical rainfall and stream flow data. Land application can occur at rates that are equal to or less than the site-specific rates listed in Section 4 of the Site Management Plan and Condition No. 8 of Part II.

10. Total Available Acreage

There are 596.5 acres available for land application. Only 557.8 acres of 596.5 acres are usable based on the ARNMP Phosphorus Index calculations. Fields CCGW, DC, and JG-B were originally included in the Site Management Plan; however, the fields are not included in the permit due to the assigned P-Index risk of high or very high.

According to Section 4 of the Site Management Plan, the land application sites can receive 4,800,000 gallons per year of waste from Waste Storage Pond 1 or 6,654,000 gallons per year of waste from Waste Storage Pond 2 based on the P-Index. For any given year, each field can be applied to from either Waste Storage Pond 1 or Waste Storage Pond 2, but not both to ensure that over application does not occur.

P-Index Risk based on Waste Storage Pond 1

Fields EC-A, LCM2, RM1, RC4, PC1, CB9, CB10, CB13, EM1 and GD1 are classified as a low P-Index risk. Fields CCGW, CC1, JG-A, HB1, HB2, LCM1, LCM3, RM2, MM1, MM2, MM3, RC3, CB1, CB2, CB3, CB4, CB4, CB6, CB7, CB8, CB11, CB12, VIV1, and VIV1A are classified as a medium P-Index risk.

P-Index Risk based on Waste Storage Pond 2

Fields CCGW, CC1, JG-A, RM2, MM1, MM2, MM3, RC3, CB1, CB2, CB3, CB4, CB5, CB6, CB7, CB8, CB11, CB12, VIV1, and VIV1A are classified as a medium P-Index risk. Fields EC-A, HB1, HB2, LCM1, LCM2, LCM3, RM1, RC4, PC1, CB9, CB10, CB13, EM1, and GD1 are classified as low P-Index risk.

11. Basis for Permit Conditions

The Arkansas Department of Environmental Quality has made the determination to issue a draft modification permit for the no-discharge facility as described in the application and the SMP. Permit requirements and conditions are based on regulations pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.), Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation 5 and generally accepted scientific knowledge and engineering practices (Ark. Code Ann. § 8-4-203(e)(2)(B)(i)).

Part I - Waste and Soil Analysis and Reporting

Analysis and reporting requirements in Table I and Table II of Part I of the permit are based on the APC&EC Regulation No. 5. The waste parameters listed in Table I shall be sampled and analyzed at a minimum of once a year based on Reg. 5.407(B). The soil, of each field where waste will be applied, parameters listed in Table II shall be sampled and analyzed at least once every five (5) years based on Reg. 5.407(C).

Part II - Specific Conditions

The conditions in Part II are based on the APC&EC Regulation No. 5 unless specified below. In accordance with Ark. Code Ann. § 8-4-203(e)(2)(B)(ii), the Department has provided the appropriate APC&EC Regulation No. 5 citation at the end of each condition or provided justification with appropriate reference to the scientific and engineering literature or written studies conducted by the Department.

Condition No. 2 prohibits any discharge from this facility. If the facility has any discharge then the facility must apply for a National Pollutant Discharge Elimination System (NPDES) Permit.

Condition No. 6 was added to the permit because an application site covered in more than one permit is at risk of over application of nutrients. This condition encourages the applicant to confirm with the landowner that the site is not currently covered under another active permit before permitting the site.

Condition No. 9 is based upon Table 6 of the Arkansas Phosphorus Index (API) by the University of Arkansas Cooperative Extension Service, which identifies lower risk categories to be those with an API value in the Medium class or lower.

Condition No. 16 is based on APC&EC Reg. 5.406(D). However, the Department used US Army Corps of Engineers Regulatory Guidance Letter No. 05-05 to provide a comprehensive definition of the ordinary high water mark.

Condition Nos. 16 and 17 is based on APC&EC Reg. 5.406. However, the Department added Condition No. 18 to the permit in order to verify that the permittee will be applying waste within all of the required boundaries of the land application site(s).

Condition No. 19 is based on APC&EC Reg. 5.407(E). However, the Department added the requirement to submit the phosphorus application rate with the annual report in order to verify the phosphorus application rates in the Phosphorus Index.

Part III - Standard Conditions

Standard Conditions have been included in this permit based on NPDES General Permit ARG590000 (Part 6-9).

Part IV - Definitions

All definitions in Part IV of the permit are self-explanatory.

4. Point of Contact

The following staff contributed to the preparation of this permit:

Katherine McWilliams
Engineer
Permits Branch, Office of Water Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317
501-682-0651
E-mail: mcwilliamsk@adeq.state.ar.us

Technical review

Jamal Solaimanian, Ph.D., P.E.
Engineer Supervisor
Permits Branch, Office of Water Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317
501-682-0620
E-mail: jamal@adeq.state.ar.us

12. Sources

The following Sources were used to draft the permit:

1. APC&EC Regulation No. 8, Administrative Procedures, as amended.
2. APC&EC Regulation No. 9, Fee System for Environmental Permits, as amended.
3. APC&EC Regulation No. 5, Liquid Animal Waste Management Systems, as amended.
4. NPDES General Permit ARG590000, Concentrated Animal Feeding Operations (CAFO).
5. Integrated Water Quality and Assessment Report (305(b) Report).
6. Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq.
7. Arkansas Trade Secrets Act, Ark. Code Ann. § 4-75-601 et seq.

8. US Army Corps of Engineers Regulatory Guidance Letter No. 05-05
9. Application for permit No. 3540-WR-7 received August 5, 2015.
10. Site Management Plan received July 27, 2015.
11. Additional information received August 17, 2015, September 16, 2015 and December 10, 2015.
12. Arkansas Department of Health letter with no comments received on September 8, 2015.

13. Public Notice and Hearing

During a 30-day period, any interested persons may submit written comments on the permit and may request a public hearing to clarify issues involved in the permitting decision. A request for a public hearing shall be in writing and shall state the nature of the issue(s) proposed to be raised in the hearing.

The ADEQ will notify via an e-mail public notice of the permit to the Corps of Engineers, the U.S. Fish and Wildlife Service, the Arkansas Game and Fish, the Department of Arkansas Heritage, the EPA Region 6, and the Arkansas Department of Health as well as all interested persons that are listed in the ADEQ Water Permit public Notices Listserv for review and comments.

DRAFT

Permit No. 3540-WR-7
AFIN 51-00020

AUTHORIZATION FOR A NO-DISCHARGE WATER PERMIT UNDER THE ARKANSAS WATER AND AIR POLLUTION CONTROL ACT

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act
(Ark. Code Ann. § 8-4-101 *et seq.*)

Ellis Campbell d/b/a EC Farms

is authorized to land apply liquid waste from C&H Hog Farm, Inc. on sites listed in Condition
No. 8 of Part II of the permit in Newton County.

The land application sites are located in Stream Segment 4J of the White River basin and in
Stream Segment 3H of the Arkansas River basin.

Operation shall be in accordance with all conditions set forth in the permit.

Effective Date: April 1, 2012

1st Modification Effective Date: March 1, 2015

2nd Modification Effective Date:

Expiration Date: N/A

Caleb J. Osborne
Associate Director, Office of Water Quality
Arkansas Department of Environmental Quality

Modification Issue Date

Part I Monitoring Requirements

The following tables detail the monitoring frequencies and the requirements for reporting results to the ADEQ for each respective parameter listed in the table heading.

TABLE I		
Waste Analysis		
Parameter ¹	Limits (Reporting Units)	Monitoring Frequency
pH	Report (S.U.)	Analysis from C&H Hog Farm ³
Percent Solids	Report (Percentage (%))	
Total Phosphorus	Report (mg/L)	
Soluble Phosphorus		
Total Nitrogen		
Potassium		
Application Rate	Report ² (gal/acre)	Per application

¹ See Part II Specific Condition Nos. 19 and 20.

² Not to exceed that listed in Part II Specific Condition No. 8.

³ Most recent waste analysis performed by C&H Hog Farm. All new waste analyses shall be in compliance with Condition Nos. 8, 9 and 22.

TABLE II		
Soils		
Parameter	Limit (Reporting Units)	Monitoring Frequency
pH	Report (S.U.)	Once every five (5) years from the effective date of the permit per land application site*
Phosphorus	Report (mg/L)	
Potassium		
Nitrates		

*One composite sample must be taken for every 40 acres.

Part II Specific Conditions

1. This permit is for the land application of liquid swine waste and is subject to Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 5 in its entirety. This facility shall only receive liquid swine waste from C&H Hog Farm (Permit Tracking No. ARG590001).
2. Waste shall not be discharged from this operation to the waters of the State or onto the land in any manner that may result in ponding or runoff to the waters of the State. [Reg. 5.303]
3. No liquid animal waste management system shall be constructed or placed into operation unless written approval by the Department is received. [Reg. 5.401]
4. The land application operation shall be managed in accordance with the June 2015 Site Management Plan (SMP) and revised documents submitted December 10, 2015. The SMP and revised documents submitted for the land application operation are hereby incorporated into this permit by reference. As a result, all provisions and information contained in the SMP become enforceable conditions of this permit. If the SMP is inconsistent with this permit, the land application operation shall be managed in accordance with the terms of the permit and the SMP shall be revised to conform to the permit conditions.
5. Land application rates shall be in accordance with the June 2015 SMP, revised documents submitted December 10, 2015, and Condition No. 8 listed below.
6. The permittee shall determine if the land application sites listed below are currently permitted or used by another user. In the event that the Department determines that any land application site under this permit is permitted for land application under another Office of Water Quality Permit, the permittee cannot land apply on the land application site(s) until such time that the permits are corrected.
7. Unless otherwise specified, methods and timing of sampling and analysis described in this permit must be in accordance with the University of Arkansas Cooperative Extension Service guidelines. [Reg. 5.407(D)]
8. All land application of waste must occur only on the approved land application sites and at no more than the maximum application rates listed below. Any other land application sites that are not listed below even if listed in the application or other documents are prohibited.

Land Application Sites						
Field	New/ Existing	Acreage	Latitude	Longitude	Maximum Application Rate ^{1,3} (gal/ac/yr)	Maximum Application Rate ^{2,3} (gal/ac/yr)
CC1	Existing	5.2	35°54'43.427"N	93°12'12.133"W	6000	11000
JG-A	Existing	14	35°54'42.571"N	93°12'19.986"W	7500	13000
EC-A	Existing	4.8	35°54'11.135"N	93°12'26.422"W	7500	10500
HB1	Existing	11.1	35°50'21.505"N	93°14'41.726"W	7500	10500
HB2	Existing	13.1	35°50'45.286"N	93°14'06.534"W	7500	10500
LCM1	Existing	18.5	35°51'45.009"N	93°11'01.470"W	10500	14000
LCM2	Existing	16.2	35°51'38.009"N	93°10'52.464"W	10500	14000

Land Application Sites						
Field	New/ Existing	Acreage	Latitude	Longitude	Maximum Application Rate ^{1,3} (gal/ac/yr)	Maximum Application Rate ^{2,3} (gal/ac/yr)
LCM3	Existing	19.1	35°51'38.573"N	93°11'22.681"W	10500	14000
RM1	Existing	82.2	35°54'47.608"N	93°09'13.749"W	7500	10500
RM2	Existing	21.4	35°54'45.980"N	93°09'13.186"W	10500	14000
MM1	Existing	13.8	35°55'24.985"N	93°07'21.302"W	10500	14000
MM2	Existing	29.8	35°55'19.393"N	93°07'10.543"W	10500	14000
MM3	Existing	10.9	35°55'17.607"N	93°07'13.254"W	10500	14000
RC3	Existing	12	35°55'15.910"N	93°07'12.208"W	10500	14000
RC4	Existing	18.4	35°54'56.137"N	93°07'05.394"W	7500	10500
PC1	Existing	18.3	35°54'59.632"N	93°06'49.953"W	7500	10500
CB1	Existing	12.5	35°56'27.536"N	93°06'52.448"W	10500	14000
CB2	Existing	37.5	35°56'36.365"N	93°06'59.954"W	7500	10500
CB3	Existing	3.8	35°56'38.732"N	93°06'54.057"W	7500	10500
CB4	Existing	16.1	35°56'22.651"N	93°07'02.932"W	10500	14000
CB5	Existing	1.8	35°56'32.232"N	93°07'19.900"W	7500	10500
CB6	Existing	13.3	35°56'31.162"N	93°07'23.270"W	7500	12000
CB7	Existing	44	35°56'29.407"N	93°07'26.546"W	7500	10500
CB8	Existing	6.5	35°56'25.656"N	93°07'44.149"W	7500	10500
CB9	Existing	19.7	35°56'19.915"N	93°08'09.429"W	7500	10500
CB10	Existing	22.5	35°56'33.329"N	93°08'02.521"W	7500	10500
CB11	Existing	8.5	35°56'03.476"N	93°07'57.787"W	5500	9500
CB12	Existing	4.4	35°56'08.654"N	93°07'58.920"W	7500	10500
CB13	Existing	8.5	35°56'28.126"N	93°08'22.650"W	7500	10500
EM1	Existing	6.6	35°54'36.129"N	93°12'36.204"W	7500	10500
GD1	Existing	10.2	35°48'22.963"N	93°08'39.719"W	10500	14000
VIV1	Existing	22.9	35°52'14.285"N	93°11'30.893"W	10500	14000
VIV1A	Existing	10.2	35°52'17.313"N	93°11'35.059"W	10500	14000

¹ Maximum application rate for waste from Waste Storage Pond 1. The application rate cannot exceed a rate that results in a violation of Condition No. 9.

² Maximum application rate for waste from Waste Storage Pond 2. The application rate cannot exceed a rate that results in a violation of Condition No. 9.

³ For any given year, each field can be applied to from either Waste Storage Pond 1 or Waste Storage Pond 2, but not both.

9. Land application shall only take place on fields that are classified as Low or Medium classes in the Phosphorus Index. Application rates may be updated based on the waste and soil results from Part I Table I and Table II, respectively, but application rates may not exceed the maximum rates listed in Condition No. 8.
10. Waste shall not be land applied where land application is prohibited by Arkansas Department of Health regulations for the protection of public water supplies. [Reg. 5.406(F)]
11. The permittee will be responsible for ensuring that the landowners of all waste application sites and the waste applicators abide by the conditions of this permit. [Reg. 5.405 (B)]

12. The permittee must take all reasonable and necessary measures to minimize obnoxious and offensive odors. In accordance with Section 1 of the SMP, the facility will focus on the following management practices for land application: avoiding spreading just before weekends and holidays; spreading in the mornings; and consideration of weather conditions. [Reg. 5.405(A)]
13. Waste must be evenly distributed over the application sites. [Reg. 5.406(A)]
14. Waste must not be land applied when the soil is saturated; frozen or covered with ice or snow; when significant precipitation is reasonably anticipated in the next 24 hours; or during a precipitation event. [Reg. 5.406(B)]
15. Waste must not be applied on slopes with a grade of more than 15% or in any manner that will allow waste to enter the waters of the State or to run onto adjacent property. [Reg. 5.406(C)]
16. Waste must not be land applied within 100 feet of streams including intermittent streams, ponds, lakes, springs, sinkholes, rock outcrops, wells and water supplies; or 300 feet of extraordinary resource waters as defined by the APC&EC Regulation No. 2. Buffer distances for streams, ponds and lakes must be measured from the ordinary high water mark. [Reg. 5.406(D)]
17. Waste must not be land applied within 50 feet of property lines or 500 feet of neighboring occupied buildings existing as of the date of the permit. The restrictions regarding property lines or neighboring buildings may be waived if the adjoining property is also approved as a land application site under a permit issued by the Department or if the adjoining property owner consents in writing. [Reg. 5.406(E)]
18. All boundaries cited in Condition Nos. 16 and 17 of Part II of the Permit must be flagged prior to land applying.
19. Annual reports for the previous year (i.e. Annual report is due on May 30, 2017 for the 2016 calendar year) must be submitted to the Department prior to May 30 of each year and must include the following: waste and soils analyses as described in Part I and the location (land application sites). For each location (land application sites), the following must be submitted with the annual report: volume of waste applied, nitrogen and phosphorus application rates, method of waste application and type of crop(s) grown. Reports must be submitted on forms provided by the Department that can be found at the following website. [Reg. 5.407(E)]

http://www2.adeq.state.ar.us/water/branch_permits/pdfs/reptform.pdf
20. Records must be kept of all land applied waste and must include, at a minimum, the following: date of application; weight or volume applied; waste destination; and number of acres over which the waste was applied. All records and logs shall be kept at the facility and provided to the Department upon request. [Reg. 5.407(A)]
21. Records must be kept of the source of the waste, including location and permit number, if applicable. All records shall be kept at the facility and provided to the Department upon request. [Reg. 5.601]
22. The SMP shall be reviewed annually by the operator. An updated SMP shall be submitted to ADEQ when changes are made or as required by ADEQ. [Reg. 5.405(C)]

Part III Standard Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq. and is grounds for civil and administrative enforcement action; for permit termination, revocation and reissuance, or modification; or for rejection of a permit renewal application.

2. Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq. provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than twenty-five thousand dollars (\$25,000) or both for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3. Permit Actions

A. This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- i. Violation of any terms or conditions of this permit;
- ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- iii. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- iv. Failure of the permittee to comply with the provisions of Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 9 (Permit fees).

B. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq.

5. **Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act and Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

6. **State Laws**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

7. **Property Rights**

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

8. **Severability**

The provisions of this permit are severable, and if any provision of this permit, or the application of any provisions of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9. **Permit Fees**

The permittee shall comply with all applicable permit fee requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APCEC Regulation No. 9 (Regulation for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR Parts 122.64 and 124.5(d), as adopted in APCEC Regulation No. 6 and the provisions of APCEC Regulation No. 8.

10. **Proper Operation and Maintenance**

- A. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- B. The permittee shall provide an adequate and trained operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

11. Duty to Mitigate

The permittee shall take all reasonable steps to prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health, the environment, or the water receiving the discharge.

12. Removed Substances

Solids removed in the course of treatment or control of waste shall be discarded in a manner such as to prevent any pollutant from such materials from entering the waters of the State.

13. Reporting of Violations and Unauthorized Discharges

A. Any violations to this permit must be reported to the Enforcement Branch of the Department immediately. Any leaks or seeps shall be reported to the Department and appropriately corrected. Any discharge from the storage system such as an overflow, a broken pipe, etc., shall be immediately reported to the Department.

B. The operator shall visually monitor and report immediately (within 24 hours) to the Enforcement Branch any unauthorized discharge from any facility caused by dike or structural failure, equipment breakdown, human error, etc., and shall follow up with a written report within five (5) days of such occurrence. The written report shall contain the following:

- i. A description of the permit violation and its cause;
- ii. The period of the violation, including exact times and dates;
- iii. If the violation has not been corrected, the anticipated time expected to correct the violation; and
- iv. Steps taken or planned to reduce, eliminate, and prevent the recurrence of the violation.

C. Reports shall be submitted to the Enforcement Branch at the following address:

Arkansas Department of Environmental Quality
Office of Water Quality, Enforcement Branch
5301 Northshore Dr.
North Little Rock, Arkansas 72118
Fax (501) 682-0880

Or by email to:

Water-Enforcement-Report@adeq.state.ar.us

14. Penalties for Tampering

The Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq. provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

15. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit,
- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance any substances or parameters at any location.

16. Planned Changes

The permittee shall give notice and provide the necessary information to the Director for review and approval prior to any planned physical alterations or additions to the permitted facility.

17. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

18. Transfers

The permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

19. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying; revoking and reissuing or terminating this permit; or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit. Information shall be submitted in the form, manner and time frame requested by the Director.

20. Signatory Requirements

- A. All applications, reports or information submitted to the Director shall be signed and certified. All permit applications shall be signed as follows:
 - i. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

- b. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including: having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - ii. For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or
 - iii. For a municipality, State, Federal, or other public agency; by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency, or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- B. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- i. The authorization is made in writing by a person described above.
 - ii. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - iii. The written authorization is submitted to the Director.
- C. Any person signing a document under this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

21. Availability of Reports

Except for data determined to be confidential under the Arkansas Trade Secrets Act, Ark. Code Ann. § 4-75-601 et seq., all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Environmental Quality. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

22. Penalties for Falsification of Reports

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to civil penalties and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 et seq.

23. Applicable Federal, State, or Local Requirements

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable Federal, State, or local statute, ordinance policy, or regulation.

24. Laboratory Analysis

All laboratory analyses submitted to the Department shall be completed by a laboratory certified by the Department under Ark. Code Ann. § 8-2-201 *et seq.* Analyses for the permittee's internal quality control or process control do not need to be performed by an ADEQ certified laboratory.

25. Retention of Records

The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

Part IV Definitions

“**Act**” means the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.) as amended.

“**APC&EC**” means the Arkansas Pollution Control and Ecology Commission.

“**Available Acreage**” means total acreage minus buffer zones

“**Confined Animal Operation**” means any lot or facility where livestock, fowl, or other animals have been, are or will be stabled or confined and fed or maintained and where crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over significant portions of the lot or facility.

“**Department**” means the Arkansas Department of Environmental Quality (ADEQ).

“**Director**” means the Director of the Arkansas Department of Environmental Quality.

“**Liquid Animal Waste Management System**” means any system used for the collection storage, distribution or removal of animal waste in liquid form generated by a confined animal operation.

“**NRCS**” means the Natural Resources Conservation Service

“**Ordinary High Water Mark**” means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a cleat, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

“**s.u.**” means standard units.

“**Site Management Plan**” means a plan prepared for land application sites, showing all buffer zones, a description of the land use and the crops grown on the site, and land use agreements if the sites are not owned by the permittee.

“**Waters of the State**” means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of this state as defined by the Act.