

REPORT OF CONCENTRATED ANIMAL FEEDING OPERATION INSPECTION

At

Fox Hollow Custom Feeding, LLC
1310 W Rd
Pender, NE 68047

ON

August 13, 2024

BY

U. S. ENVIRONMENTAL PROTECTION AGENCY
Region 7
Enforcement and Compliance Assurance Division (ECAD)

1.0 INTRODUCTION

I performed a Concentrated Animal Feeding Operation (CAFO) inspection at the Fox Hollow Custom Feeding, LLC on August 13, 2024. This inspection was performed pursuant to Section 308(a) of the Federal Water Pollution Control Act, as amended. This narrative report and Attachments present the findings and observations made during the inspection.

2.0 PARTICIPANTS

Fox Hollow Custom Feeding, LLC
Adam Kaser, Manager (402) 922-0278

Nutrient Advisors, LLC
Justin Sindelar, Consultant (402) 380-6020

U.S. Environmental Protection Agency (EPA):
Zachary Leibowitz, Physical Scientist (Lead Inspector) (913) 551-7553
Email: leibowitz.zachary@epa.gov
Adam Hendrickson, Physical Scientist

Nebraska Department of Environment and Energy (NDEE):
Derek Schreiter, Inspector
Emily Kammerer, Inspector

3.0 INSPECTION PROCEDURES

I contacted Lori Kaser, owner of the Fox Hollow Custom Feeding, LLC (Fox Hollow) via telephone on August 12, 2024, and stated that I would like to perform an inspection of the Fox Hollow operation on Tuesday, August 13, 2024. Ms. Kaser contacted her son, Adam Kaser who manages the Fox Hollow facility and we agreed to meet at 1:00 pm on Tuesday, August 13, 2024. I also stated that I would have another EPA employee with me and that the two staff from the Nebraska Department of Energy and Environment (NDEE) also planned to attend.

Prior to entering the Fox Hollow facility, I conducted a visual reconnaissance of the facility, searching for areas of concern observable from the county roads such as discharges, drainage patterns, flow directions, distance and direction of nearest perennial waters, visual condition of perennial waters, facility location and layout. The facility is located approximately 5 miles southwest of Pender, Nebraska. Stage Creek flows from the south to the northeast approximately ¼ mile east of the facility. Stage Creek flows for approximately 6 miles northeast before entering Rattlesnake Creek two miles south of Pender, Nebraska. Stage Creek was flowing at the time of the inspection. Stage Creek is identified as perennial water per the USGS topographic map.

I arrived at the facility at approximately 1:00 pm and met with Mr. Kaser of the facility as well as Mr. Sindelar, the facility's nutrient management consultant. I presented my credentials and explained both the purpose of the inspection and the procedures I would follow during the inspection. Mr. Kaser stated that he was the operator of the facility and took care of day-to-day operations. I asked Mr. Kaser if the facility had a bio-security protocol and he said "no". I informed Mr. Kaser that since the facility did not have a bio-security protocol, I would be following the EPA Region VII bio-security protocol. I then made Mr. Kaser aware of his confidentiality rights and informed him that a Confidentiality Notice, which he reviewed, would be provided at the end of the inspection to make any claims. Mr. Kaser acted as the official facility representative during the inspection and provided the majority of the information pertaining to the facility operation. Mr. Kaser accompanied me during the entire inspection. After the conclusion of the inspection, Mr. Sindelar provided me with electronic copies of facility records for review and provided additional waste management information during and after the inspection.

I explained to Mr. Kaser that I would be conducting the CAFO inspection under the authority of Section 308(a) of the Federal Water Pollution Control Act to evaluate the facility's compliance status with the requirements of the Clean Water Act (CWA). I explained that the inspection would consist of a review of facility operations, required records, waste generation and management practices, and a visual inspection of the facility. I stated that I would document my findings and observations by making photocopies, taking photographs and/or videos, and obtaining statements from facility staff.

I conducted this inspection in accordance with the most current procedures described herein and the following EPA Region VII Standard Operating Procedures (SOPs), unless otherwise noted.

I completed my inspection and I summarized the findings and recommendations with Mr. Kaser and Mr. Sindelar during the exit briefing. No Notice of Preliminary Findings (NOPF) was issued during the inspection. Fourteen Photographs were taken during the inspection. See Attachment 1

for the digital Photograph chain of custody/Photo log and Photos #1 - #14. See Attachment 2 for the facility layout and photo locations.

4.0 FACILITY DESCRIPTION

4.1 Facility Operations

The Fox Hollow facility is located approximately 5 miles southwest of Pender, Nebraska, on the north side of W Road. The facility is located within the Omaha Tribe of Nebraska Indian Reservation boundaries. The physical address is 1310 W Road, Pender, Nebraska 68047. The facility has a separate mailing address which is 1324 Highway 16, Pender, Nebraska 68047. The legal description of the facility is the SW ¼ of the SW ¼, of Section 7, Township 24N, Range 06E, in Cuming County, within the Jeppson Creek-Logan Creek Dredge (HUC12 102200040306) watershed.

Mr. Kaser said that the facility is a swine finisher operation. He stated that he is the facility's only full time employee but the facility has two part time employees. On May 15, 2024, the facility (NDEE ID#: 75497) was issued a modified Phased Construction and Operating Permit from NDEE. The permit was issued for a maximum of 3,000 head of swine $\geq$ 55 lbs in its existing buildings, as well as a Phase I permit to construct facilities for an additional 1,000 head of swine $\geq$ 55 lbs (Attachment 3). Mr. Kaser said his plans had changed slightly and that he intended to build a new swine building capable of holding 2,000 head of swine $\geq$ 55 lbs, and noted that this would require an additional permit modification. Mr. Kaser said the facility had 2,858 head of swine at the time of inspection.

The approximately 10-acre facility consists of three 160 ft by 60 ft deep pit barns, identified from (from north to south) as "Top", "Middle" and "Bottom" (Attachment 2). During precipitation events, stormwater that falls on the buildings would flow from east-southeast into the north ditch along W Road. There is small, abandoned lagoon east of the Top barn. Burial of routine mortalities occurs on the northwest side of the property. Mr. Sindelar said the facility has around 755 acres across 7 sites available for land application.

4.2 CAFO Status

As stated above, the facility (NDEE ID#: 75497) was issued a modified Phased Construction and Operating Permit from NDEE on May 15, 2024, for a maximum of 3,000 head of swine $\geq$ 55 lbs (Attachment 3). Mr. Kaser said the facility had 2,858 head of swine at the time of inspection.

I reviewed the last 5 years of inventory records while on site. Additionally, Mr. Sindelar provided the facility's inventory records from January 1, 2021, to August 20, 2024, following the inspection (Attachment 4). A review of these records and statements made by Mr. Kaser show that the facility has confined at least 2,500 swine over 55 pounds for 45 days in the past 12 months. As a result of my observations, I determined that Fox Hollow meets the definition of a large CAFO as it is defined in Title 40 of the Code of Federal Regulations, Part 122.23.

4.3 Regulatory History

The most recent inspection was conducted by NDEE on January 4, 2024 (Attachment 5). Following the inspection NDEE sent a letter requiring corrective action on January 18, 2024 (Attachment 6). The letter required the facility to: (1) submit a written request to re-issue the permit with updated owner information, and (2) submit updated land application summaries/agreements by April 1, 2024. The facility requested an extension and provided the requested information by the extension deadline. The updated permit was issued on May 15, 2024. The NDEE corrective action letter also required the facility to repair damaged pit fans around barns by August 1, 2024. The facility requested an extension on August 12, 2024, and the NDEE granted an extension to repair damaged pit fans by December 1, 2024.

The EPA R7 last inspected this facility on June 4, 2018 (Attachment 7). The inspector noted a discussion with NDEE and the facility regarding the need for a major permit revision in order to build an additional confinement barn capable of 2,000 head of swine, rather than the already approved 1,000 head. No issues or concerns were noted during the inspection and no NOPV was issued. The inspector also referenced the previous EPA R7 inspection from February 24, 2014, which similarly noted no concerns at the time of inspection.

5.0 FINDINGS AND OBSERVATIONS

I conducted an inspection on August 13, 2024, to determine if Fox Hollow is in compliance with the CWA and if the waste control facility structures were capturing all process wastewater and not discharging to a water of the United States.

The weather conditions at the time of the inspection were cloudy and mild (75°F). I met with Mr. Kaser and Sindelar, discussed operational processes being performed at the facility, performed a visual inspection of the facility, and reviewed on site records being maintained by the facility. Fox Hollow has been operating as a large CAFO since its NDEE construction and operation permit was transferred from David Beutler in 2009.

During the visual inspection, I observed the burial pit located in the northwest section of the facility (Photo 8). I observed a large concentration of flies in the area around the burial pit. In the burial pit I observed a large plastic garbage bag and other inorganic debris. Additionally, upon review of the image, I noted a partially exposed mortality. Mr. Kaser said that routine mortalities are disposed of via burial and the facility would utilize rendering services if a large mortality event occurred. He stated that the facility excavates the land in the area in a continuous, circular pattern. He explained that the facility will eventually return, re-excavate and re-utilized the same area where previous burials occurred, thereby not expanding the footprint of the burial area.

I also observed the area formerly used as the facility's waste lagoon (Photo 12). The area is overgrown with vegetation and Mr. Kaser said the facility has no plans to use this lagoon in the future.

I observed that all three barns are of similar size, but the pit fan type and height varied (Photos 9-10, 13). I asked about the January 2024 NDEE inspection, which noted issues with the pit fans. Mr. Kaser explained that heavy snow during the winter caused some structural issues with the fans. He said that he was fixing the deficient fans and updating them to prevent future issues. He explained that he should be done fixing the remaining fans soon. I observed a barren patch in front of a fan on the north side of the Middle barn (Image 13). Mr. Kaser explained that the facility had recently installed a new, raised fan in the area and the construction activity caused the lack of vegetation.

I observed a small wooden platform outside of the doors on the barns (Photo 10). Mr. Kaser explained that the facility would remove this to access the deep pit for measurement, removal and land application. He explained that the facility had its own equipment to carry out the process of agitating the slurry, pumping it into a tanker/wagon and injecting the waste below the surface. I observed this equipment around the facility (Photo 14) and Mr. Sindelar provided the maintenance records for the machinery from February 2021 to August 2024 (Attachment 8). Mr. Sindelar explained that the waste level in the pit was monitored weekly and volumes of waste removed for land application could be calculated by taking starting and ending levels while pumping the waste out. Mr. Sindelar later provided the weekly liquid waste levels for January 2021 to August 2024 for the three barns (Attachment 9). The records show that liquid waste was removed in the spring and fall of 2021, 2022, and 2024, while in 2023 liquid waste was only removed in the fall. The records also show that the facility has a freeboard level of 8 feet and a target winter level of 4 feet.

I discussed the land application of liquid waste with Mr. Kaser and Mr. Sindelar. They explained that the facility would apply to 2-3 sites per year in the spring and fall – but not to the exact same area in both the spring and fall. They explained that the maximum waste application rate would be calculated based on the nutrient content of the liquid waste and land application site soil. They also said that the actual application rates were obtained from the applicator which records flow rate. Following the inspection, Mr. Sindelar provided the land application records from Spring 2021 to Spring 2024 (Attachment 10). The land application records provided by Mr. Sindelar contain the exact locations where liquid waste was applied (including setbacks from waters), soil/liquid waste analysis, precipitation before/after application, maximum application rates and actual application rates. The records confirm statements regarding land application procedures made by Mr. Kaser and Mr. Sindelar and are. The records indicate that the maximum application rate is nitrogen based at all land application sites. Land applications are summarized in Table 1. Liquid waste application rates ranged from 3,700 gallons/acre to 5,500 gallons/acre. Based on the liquid waste application rates and size of application area, I calculated that the facility applied between 0.9-1.1 million gallons of liquid waste per year for crop years 2021 to 2024.

The day before the visual inspection (August 12, 2024) I completed the EPA Stream Characteristics and Water Nexus Form for the waterbodies around the facility (Attachment 11). I observed an unnamed tributary to Stage Creek approximately 1/8 mile northwest of the facility at the culvert crossing 13th Road (Photo 1-2), Stage Creek located approximately 1/4 mile east of the facility at the culvert crossing on W Road (Photos 3-4) and Stage Creek where it meets an additional unnamed tributary approximately 1 mile northeast of the facility at the culvert crossing 14th Road (Photos 5-7).

Table 1. Land application summary of Fox Hollow from December 2020 to May 2024. Red numbers indicate calculated application rates are above calculated requirements.

Land Application Site Name	Land Application Site Legal Description	Year	Month	Size (acres)	Calculated N Application Requirement (lbs/acre) ¹	Calculated N Application (lbs/acre)	Actual Liquid Waste Application Rate (gal/acre)
STORK'S	NE1/4, E1/2 NW1/4, S34-T24N-R5E	2020	December	65.02	193	130	5,000
STORK'S	NE1/4, E1/2 NW1/4, S34-T24N-R5E	2021	April	111.4	192.6	116	3,815
AROUND PENDER PIG	SE1/4 NE1/4, S8-T24N-R6E	2021	April	28.25	167.4	167	5,500
MAYBERRY'S	Pt. N1/2 NE1/4, S8-T24N-R6E	2021	April	14	169.4	167	5,500
AROUND PENDER PIG	SE4 NE4, 8-24-6E	2021	December	27.74	126.4	123	4,000
MAYBERRY'S	N2 NE4, 8-24-6E	2021	December	57.7	139.8	123	4,000
MAYBERRY'S	N2 NE4, 8-24-6E	2021	December	14.11	126.4	123	4,000
STORK'S	NE4 & E2 NW4, 34-24-5E	2022	May	130.1	113.6	136	4,000
BARKER	NE4, 25-25-5E	2022	November	150.7	177	119	4,000
HOME PLACE	NW4, 30-25-6E	2022	November	137.2	162.6	119	4,000
AROUND PENDER PIG	SE4 NE4, 8-24-6E	2023	November	27.63	136	85	3,700
MAYBERRY'S	N2 NE4, 8-24-6E	2023	November	72.18	143.2	85	3,700
STORK'S	NE4, E2 NW4, 34-24-5E	2023 and 2024	November and May	209	98.8	85	3,700

1 – N application requirement incorporates previous 2 crop year N applications, previous crop N contribution and soil nitrate N.

6.0 SUMMARY

Fox Hollow is located approximately 5 miles southwest of Pender, Nebraska. The physical address is 1310 W Road, Pender, Nebraska 68047. The facility is located within the Omaha Tribe of Nebraska Indian Reservation boundaries. Fox Hollow meets the definition of a Large CAFO as it is defined in Title 40 of the Code of Federal Regulations, Part 122.23. Fox Hollow is permitted for a total of 3,000 head of swine ≥ 55 pounds in three total confinement buildings with the option to build an additional building with 1,000 head capacity. The facility is aware that if they wish to construct an additional building with 2,000 head capacity, it will require a major permit modification.

The facility has fixed most (but not all) pit fans following snow damage and a January 2024 inspection/corrective action letter from NDEE. The facility has an extension from NDEE to complete these repairs by December 2024. All other items in the corrective action letter from NDEE have been addressed by the facility. No issues or concerns were noted during the inspection and no NOPV was issued to Fox Hollow at the time of the inspection.

**ZACHARY
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Zachary Leibowitz
Physical Scientist

**NICOLE
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Nicole Moran
Acting Branch Chief

ATTACHMENTS:

01. Digital Photograph Image Chain of Custody/Photo Log and Photos #1 - #14 (16 pages)
02. Facility Layout and Photo Locations (2 pages)
03. Modified Phased Construction and Operating Permit Nutrient (7 pages)
04. January 2021 – August 2024 Monthly Swine Inventory (44 pages)
05. NDEE Inspection Report January 2024 (4 pages)
06. NDEE Corrective Action Letter January 2024 (2 pages)
07. USEPA Region 7 Inspection Report June 2018 (91 pages)
08. January 2021 - August 2024 Land Application Equipment Inspection Records (7 pages)
09. January 2021 - August 2024 Weekly Deep Pit Waste Levels (12 pages)
10. January 2021 - August 2024 Liquid Waste Land Application Records (57 pages)
11. EPA Stream Characteristics and Water Nexus Form (2 pages)