

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

NOTICE OF FINAL DETERMINATION TO REISSUE A WISCONSIN POLLUTANT DISCHARGE
ELIMINATION SYSTEM (WPDES) PERMIT No. WI-0061824-03-0

Permittee: Burr Oak Heifers LLC, P.O. Box 122, Coloma, WI, 54930

Facility Where Discharge Occurs: Burr Oak Heifers LLC, NWQ, Sec. 36, T18N, R7E

Receiving Water And Location: Surface water and groundwater within the Little Roche-A-Cri Watershed

Facility Description: Burr Oak Heifers, LLC, (BOH) has been issued a water quality protection permit previously held by Opitz Custom Heifers. The Department had a 41-day public comment period on the proposed WPDES permit for this operation and held a public informational hearing on the permit on Tuesday, April 15, 2014. DNR previously approved engineering design plans for barns, feed storage and waste storage submitted by Burr Oak Heifers. Design plans will result in significant upgrades at the site, going above and beyond what's normally required in permits, in order to minimize groundwater impacts to the greatest extent possible. In addition, DNR is requiring the installation of two additional groundwater monitoring wells to provide comprehensive monitoring within the BOH Production area to detect any potential problems. The operation will keep animals housed in barns over concrete. The designs provide a higher level of water quality protection than normally required because past practices by the former operator of the site contributed to groundwater nitrate contamination. The designs are intended to prevent further nitrate in the manure from leaching into groundwater. When complete, the operation will house 3,100 heifers that will produce an estimated 3.32 million gallons of liquid manure and 45,900 tons of solid manure annually.

Land application of manure and process wastewater from the operation will be done in accordance with a DNR approved Nutrient Management Plan (NMP). The DNR-approved plan confirms Burr Oak Heifers will need to use 1,988 acres of the 2,982 total acres available on an annual basis for landspreading. The plan contains management practices to minimize the risk for manure nutrient losses from sand soils to groundwater.

Permit Drafter: Terence Kafka, DNR, 5301 Rib Mountain Drive, Wausau, WI, 54401, (715) 355-1363

Date Permit Signed/Issued: December 2, 2014

Date of Effectiveness: January 1, 2015

Date of Expiration: December 31, 2019

Following the public informational hearing, the Department has made a final determination to reissue the WPDES permit for the above-named permittee. The permit application information from the WPDES permit file, comments received on the proposed permit and applicable Wis. Adm. Codes were used as a basis for this final determination.

The Department has the authority to issue, modify, suspend, or revoke WPDES permits and to establish effluent limitations and permit conditions under ch. 283, Stats.

A summary of significant comments and any significant changes to the permit are included in the "Response to Comments" document which can be found at: <http://dnr.wi.gov/topic/AgBusiness/CAFO/BurrOakHeifers.html>

Changes to the Burr Oak Heifer WPDES permit regarding Nitrate Alternative Concentrate Limit (ACL)

The Department received a number of comments expressing concerns about granting an exemption to the groundwater standard for nitrate under the BOH WPDES permit (and in opposition to the proposed ACL of 28 mg/L). Due to questions concerning how background groundwater quality flowing onto the site was calculated and the possibility of a groundwater flow divide being located within the BOH production area, the Department has determined that it is appropriate to defer a decision on the proposed nitrate groundwater quality standard exemption and ACL. Issuing the BOH WPDES permit, while deferring a decision on a nitrate exemption and ACL, will result in the permittee being required to continue taking necessary response actions under ch. NR 140, Wis. Adm. Code, that address nitrate enforcement standard exceedances caused by past practices by Opitz Custom heifers at the site. Current response actions being implemented at BOH under s. NR 140.26(2), Table 6, Items 1 and 2, are a revision of operational procedures at the facility and a change in facility design and construction.

During the permit term, BOH will monitor groundwater at the facility and the Department will evaluate the concentration of nitrate in groundwater to determine if any new releases of the substance are occurring. If the Department determines that new releases of nitrate are occurring, additional response actions will be required at the facility to minimize the concentration of the substance in groundwater and prevent new releases from traveling beyond the facility design management zone, or other applicable points of standards application.

Issuance of the WPDES permit ensures that these response actions will continue, including an upgrade of the facility groundwater monitoring system, collection of additional groundwater elevation measurements and groundwater quality samples for analysis. With the additional groundwater monitoring results, Department staff will be better

able to evaluate and verify groundwater flow and background groundwater quality at the site, and determine whether to grant an exemption and establish an ACL at the next permit issuance.

As provided by s. 283.63, Stats., and ch. NR 203, Wis. Adm. Code, persons desiring further adjudicative review of this final determination may request a public adjudicatory hearing. Any such request shall be made by filing a verified petition for review with the Secretary of the Department of Natural Resources within 60 days of the date the permit was signed (see permit signature date above). Further information regarding the conduct and nature of public adjudicatory hearings may be obtained by contacting the Department of Natural Resources, Bureau of Watershed Management, WPDES Permits, Box 7921, Madison, Wisconsin 53707 and by review of ch. NR 203, Wis. Adm. Code, s. 283.63 Stats., and other applicable law, including s. 227.42, Stats..

Information on file for this permit action may be inspected and copied at either the above named permit drafter's address or the above named basin engineer's address, Monday through Friday (except holidays), between 9:00 a.m. and 3:30 p.m. Information on this permit action may also be obtained by calling the permit drafter at (715) 355-1363 or by writing to the Department. Reasonable costs (usually 20 cents per page) will be charged for copies of information in the file other than the public notice and fact sheet. Pursuant to the Americans with Disabilities Act, reasonable accommodation, including the provision of informational material in an alternative format, will be made to qualified individuals upon request.