



Minnesota Pollution Control Agency

January 20, 1999

Mr. James Nobles
Legislative Auditor
Office of the Legislative Auditor
State of Minnesota

Dear Mr. Nobles:

The Minnesota Pollution Control Agency is pleased to receive the recommendations of the Legislative Auditor's Office for improving the state's program for regulating the environmental aspects of animal feedlots. MPCA staff have thoroughly reviewed and provided input for the report. We wish to acknowledge the careful, comprehensive and balanced job the Legislative Auditor's Office did with this audit and thank the Auditor for the opportunity to respond. Herewith we provide our comments to the feedlot program audit report.

The public profile of feedlots has increased enormously over the past decade as the animal agriculture industry has experienced dramatic change in Minnesota. The MPCA's regulatory role in this industry has necessarily changed as well, with staff assigned to feedlots increasing from four a few years ago to 34 full-time equivalents (FTE) today.

The MPCA agrees with the report's general thrust that there is room for improvement, and welcomes this opportunity to explore ways to improve our performance. At the same time we wish to point out the excellent work of our staff in the feedlot program to date. We want to make very clear our belief that they have performed admirably in a situation where, perhaps more than with any other MPCA program, the resources available have fallen far short of matching the need. Simply put, these staff have had a nearly impossible job. That they have not always succeeded in keeping up with the mountain of work in this program is no reflection on them, but instead an indication of a major increase in workload, both in projects to be reviewed and issues to be addressed.

That said, MPCA staff and management concur with the report in that the MPCA needs a greater presence in the field and that counties must eventually have the primary role in feedlot siting and regulation. Where we differ significantly is with the approach recommended in the report. The report recommends that the traditional regulatory approach of prescriptive rules, issuing prescriptive permits, inspecting for compliance, and taking appropriate enforcement action be applied to 40,000-plus feedlots in Minnesota.

The problem we see with this approach is that addressing feedlots with traditional regulatory methods would require up to 170 FTE devoted entirely to feedlots. (This is a conservative estimate,

based in part on the experience of Blue Earth County, which runs the most successful feedlot regulatory program of all the counties delegated by the MPCA to enforce Minn. Rule Chapter 7020. The county's feedlot regulatory effort provides about one FTE per 200 to 300 feedlots, a level which seems to provide, in a county which runs its program very well, the approximate level of regulatory effort called for in this report. By comparison, the MPCA's current staffing level provides about one FTE per 1,000 to 1,200 feedlots.)

Rather than addressing each feedlot separately using traditional regulatory methods as outlined in the report -- which the current program cannot do in any meaningful way -- we propose a strategic re-evaluation of the way in which we deal with the environmental problems associated with feedlots. For most of the nearly 30 years the state has had a feedlot program, the MPCA has focused primarily on issues related to runoff from open lots and to manure storage. Traditionally it has been thought that these issues were where most of the potential environmental impact of feedlots originated, and they therefore have been where we focused most of our energy.

But new realities are changing this focus. The **air emissions and odors** associated with large feedlot facilities have become an extremely contentious issue for neighbors and nearby communities. The **surface-water impacts of runoff** from the thousands of smaller, mostly open feedlots have not proven amenable to mitigation by traditional regulatory methods, primarily because of the number of facilities with runoff problems, the cultural mores of family farming, and the cost of proper mitigation. And despite widespread efforts to educate producers about **proper nutrient management**, manure continues to be vastly undervalued as a crop nutrient; it is far too often overapplied, often in combination with chemical fertilizers, resulting in unacceptable nutrient loads to surface and ground water.

Therefore, the MPCA feels that the best use of current staffing levels -- the best environmental bang for the buck, given current capabilities -- is to pull back from our traditional, regulatory focus, and frame our efforts instead in a three-pronged approach that targets proper nutrient management (manure application to crop land), the unique problems associated with runoff from smaller open lots, and the air-quality issues associated with large facilities.

Nutrient management. Overapplication of nutrients (including manure) is arguably the greatest overall threat to water quality in the state. The MPCA proposes to address this problem by working to assure that producers understand proper agronomic rates for nutrient application and do not exceed them. The primary approach will be to encourage feedlot operators to develop manure management plans for their facilities that will force them to think in terms of proper application rates for nutrients, whether from commercial or manure sources. We intend to reserve traditional enforcement for blatant violators who continue to ignore laws and rules.

Open lots. There are thousands of feedlot operations in Minnesota that have less than 300 animal units and use mainly open lots. Many of these facilities have problems with runoff of manure into surface or ground waters ranging from mild to severe. Taken together, this represents a substantial impact to the state's water quality. In many cases the solution is the construction of runoff/run-on diversions and collection basins, and denying animals access to surface waters. Most of these producers have little or no time, money, expertise, or equipment to deal effectively with this problem. These facilities are widely valued as representative of family farming. Traditional

enforcement against them is unpopular and they are often difficult to reach with the traditional permitting process. Appropriate pollution abatement systems for these facilities cost an average of \$40,000 per site, a level clearly beyond this sector's means. Many are so marginal that they could go out of business in the next decade, or stiffer regulations could force them out. For this sector, the MPCA proposes a strategy of building awareness for and facilitating low-cost solutions in the context of existing technical assistance and monetary incentives and/or assistance. Enforcement would be reserved for blatant or repeat violators.

Air emissions and odors. The high-profile controversy over air emissions and odors of feedlots is in many cases associated with manure handling and storage at newer, large, confined animal feeding operations. These facilities can produce air emissions that not only diminish quality of life for those living nearby but in some cases can actually be a human health concern. The traditional, prescriptive regulatory strategy is well suited to dealing with these facilities, but there are difficulties involved in abating these emissions and setting standards for them. The MPCA has only recently begun to monitor some of the constituent gases in these emissions (particularly hydrogen sulfide and ammonia) and consider strategies for dealing with them. Much more work remains to be done in developing an evaluation and regulatory scheme for feedlot air emissions and odors.

As an overarching guide to implementing the approach outlined above, we intend to target our efforts in watersheds where the environmental impacts of feedlots are a particular problem. That is, rather than applying this approach evenly across the state, we will focus first on those watersheds where the water resources are most impacted by feedlots. Efforts may include requiring nutrient management plans for facilities and continued enforcement for blatant cases.

To implement this 3-pronged approach, the MPCA intends, as circumstances allow, to move staff or vacant positions to our regional subdistrict offices so they will be "on the ground" closer to where the problems are. The MPCA approach outlined in this letter also will depend heavily on working more closely with the counties, who must become more involved if we are to have much hope of fixing feedlots in Minnesota. MPCA staff will act as "wholesalers" to the counties, helping them to develop capacity and ability to then "retail" feedlot fixes and regulation at the local level.

The MPCA strongly believes that this approach will provide the most environmental benefit given current realities in the farm sector. We realize it may be met with skepticism from some quarters. However, there are limits to what can be accomplished with the resources likely to be available to the MPCA in the foreseeable future. The above represents what we believe to be our best opportunity to maximize environmental protection in light of those limits.

Sincerely,



Lisa J. Thorvig
Acting Commissioner