

**Becker County Planning Commission**  
**February 22<sup>nd</sup>, 2023**

**Members Present:** Chairman Dave Blomseth, Tom Disse, Kohl Skalin, Tommy Ailie, County Commissioner Erica Jepson, Harvey Aho, Mary Seaberg, Nick Bowers, Steve Lindow, Jeff Moritz, Kim Mattson, Craig Hall, Zoning Director Kyle Vareberg, and County Attorney Brian McDonald. **Members Absent:** County Commissioner John Okeson

Chairman Dave Blomseth called the Planning Commission meeting to order at 6:00 pm. Introductions were given. Becker County Zoning Technician Nicole Hultin recorded the minutes.

Harvey Aho made a motion to approve the minutes from the February 22<sup>nd</sup>, 2023, meeting. Skalin second. All members in favor. Motion carried.

Chairman Dave Blomseth explained the protocol for the meeting and stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action.

**New Business:**

1. **APPLICANT: Sarah R Bachmann** 13298 Co Rd 115 Frazee, MN 56544 **Project Location:** 13298 Co Rd 115 Frazee, MN 56544 **LEGAL LAND DESCRIPTION:** Tax ID Numbers: **29.0066.000 & 29.0067.000** Section 14 Township 138 Range 039; NE1/4 OF NE1/4 EX 2.65 AC IN SE COR; 230' N&S BY 500' E&W IN SE COR OF NE1/4 OF NE1/4 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Conditional Use Permit for a Non-Shoreland Multi-Unit Development consisting of fifteen (15) units.

Sarah Bachmann presented the application. She stated they had been working with US Fish and Wildlife on developing the land into a wildlife habitat, and now that the landscape is complete, they would like to move forward with building. The plan is for fifteen (15) units on forty (40) acres. She stated that they may not build all fifteen, and that it will be a slow process.

Shawn May with the US Fish and Wildlife spoke and shared that he had been working with Bachmann's since 2017 to enhance the land. He commented that the proposal won't affect any of the work that has been done. He stated that they just need to be sure there's proper sewage removal.

Lindow asked if all units would be connected to one septic.

Vareberg stated that there will be a shared well, but each unit will have its own holding tank.

Disse asked if they would sell the units or rent them.

Bachmann said they will be rentals.

As there was no one to speak for or against the application, testimony was closed.

Skalin stated that he doesn't see any issues from a Planning and Zoning perspective.

Hall agreed.

**MOTION: Skalin motioned to approve the application; Moritz second. Roll Call; All in favor. Motion carried.**

**2. APPLICANT: Michael D Anderson** 213 Willow St E Detroit Lakes, MN 56501  
**Project Location:** TBD County Hwy 6 Detroit Lakes, MN 56501 **LEGAL LAND DESCRIPTION:** Tax ID Number: **19.0047.003** Section 04 Township 138 Range 041; 4-138-41 PT GOVT LOTS 3-4, PT SE1/4 NW1/4: COMM CTR SEC 4, W 132' TO POB; N 165', E 132', N 1906.08', W 66', N 432.69', NW 103.08', N 150.01', W 1100.2', SLY AL TH 59 1095.52', E 300', NLY 786.06', E 227.28', SELY 599.44', SLY 614.87', S 378.12', SW 894.46', W 326.92', W 105.4', S 58.99', E 1264.98' TO POB. **TRACT A-2. APPLICATION AND DESCRIPTION OF PROJECT:** Request a Preliminary Plat for a common interest community consisting of twenty-one (21) units to be called LAKER ISLAND STORAGE FIRST ADDITION.

Adam Geiger with Meadowland Surveying presented the application. He stated that the Highway Department has accepted the proposed approach, that they have submitted a Storm Water Management Plan, and that any MPCA requirements would be completed before construction would begin.

Lindow asked about a potential Creek on the South side.

Vareberg said it's a public ditch.

Lindow asked if runoff will go into the ditch.

Geiger said it will all be accounted for in the engineered plan.

Scott Walz with Meadowland Surveying stated there will be stormwater retention areas.

As there was no one to speak for or against the application, testimony was closed.

Skalin commented on the number of businesses that already exist along that section of the Highway, and that this is just an addition to his existing storage.

Hall said it's very consistent with the area.

**MOTION: Aho motioned to approve the application; Ailie second. Roll Call; All in favor. Motion carried.**

**3. APPLICANT: William L & Karolyn K Zurn** 18629 Co Hwy 14 Callaway, MN 56521-9785 **Project Location:** TBD 270<sup>th</sup> St Audubon, MN 56511 **LEGAL LAND DESCRIPTION:** Tax ID Number: **14.0022.000** Section 05 Township 140 Range 042; FRAC NE1/4, LOTS 6 & 7 & NE1/4 OF SE1/4 LESS 158.30 ACRES **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Conditional Use Permit to operate a feedlot.

Chairman David Blomseth stated that due to a conflict of interest that he would only be moderating testimony and would not be commenting or voting on this application.

Eric Zurn presented the application. He stated that there would be nine hundred ninety-nine (999) animal units.

Skalin asked if all the manure would be stored under the barn or if there would be some outside storage.

Zurn said there would be no outside storage.

Lindow asked how many sows there would be.

Zurn said there would be nine hundred ninety-nine (999) animal units which amounts to approximately two thousand five hundred (2500) sows.

Lindow asked if there would be an Environmental Assessment Worksheet (EAW) filled out for this application.

Vareberg said the County has no regulatory authority over an EAW for this application. He stated that the Governing agency issuing the feedlot permit is required for the environmental review which would be the MPCA, so we have no comment as a county on the EAW.

Lindow asked if this is considered shoreland.

139  
140 Vareberg stated that the body of water to the east is a wetland and the body of water to the south  
141 is Rassum Lake. He said the property boundaries are within one thousand (1000) feet of the lake,  
142 but if the Minnesota Pollution Control Agency (MPCA) requires it, the property will be  
143 subdivided and then the boundaries would be more than one thousand (1000) from the natural  
144 environment lake.  
145  
146 Lindow asked about the location of Rassum lake because the GIS map shows it being to the east  
147 instead of the south.  
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149 Vareberg stated that he did extensive work with the Minnesota DNR to determine the actual  
150 location of Rassum Lake, which is to the South.  
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152 Lindow asked if feedlots need to be three hundred (300) feet from a natural environment lake.  
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154 Vareberg said that is correct, and that if a split is required the property will be more than one  
155 thousand (1000) feet from Rassum lake and more than three hundred (300) feet from the  
156 tributary river going through that wetland.  
157  
158 Lindow stated that number one (1) in the application asks about nuisance and odor. He said the  
159 smells will impact those that hunt on the neighboring property and buildings will affect the  
160 distance required from a building for shooting. He asked what the Zurns will do to reduce  
161 ammonia from the pit and the animals.  
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163 Zurn said they will do whatever the MPCA requires.  
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165 Jim Blair with the Swine Vet Center spoke and stated that they control odor with pit additives,  
166 and there will be filtration they can run it through. He said there are about six (6) to seven (7)  
167 days a year when it's being applied that the smells can be offensive.  
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169 Lindow asked if waste will stay on Zurn property.  
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171 Zurn said he does plan to use it himself and share it with neighbors that have expressed an  
172 interest.  
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174 Lindow asked if they will be injecting the manure.  
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176 Zurn said he will do whatever is required by the MPCA. He said he does not know if they require  
177 it. He said the MPCA won't work with them unless they get approved for the Conditional Use  
178 Permit, so he doesn't know exactly what they are going to require.  
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180 Jepson commented on the drain tile that drains into the lake, and asked if the manure pit under  
181 the barns will require the drain tile to be removed.  
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183 Zurn said the pit will be completely confined, and that any drain tile in the way will be removed.  
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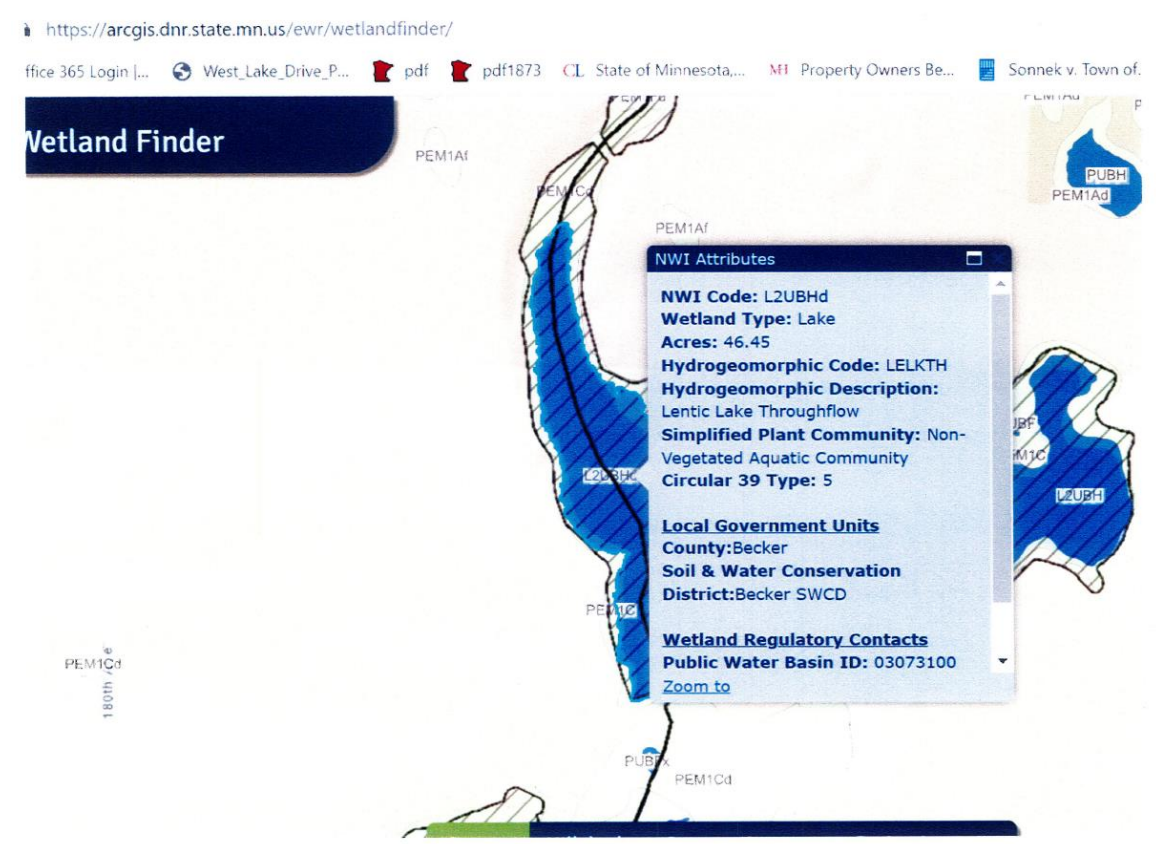


Lindow asked on the map where the facilities and holding pond will be located.

Zurn said it will depend on the engineered plan.

Skalin said they'll have to be wherever the required setbacks allow.

Steve Quam spoke on behalf of the Land O' Lakes Gun club. He said that he also did research on Rassum lake. He submitted two maps to be entered into the record below:





Quam commented on needing to make factual findings. He stated that the neighbors to the east will be affected. He said that facilities need to be adequate. He says there is not adequate access to the property. He said part of making the findings is you need to comply with Minnesota Law and feedlots are not allowed in the shoreland. He also said this deserves much more than an environmental review.

Willis Mattson urged the Planning Commission to deny or table until the further study offered by the County's Comprehensive planning process is complete. He said the site would violate shoreland setback rules, that the application was incomplete, and that the commission has not been adequately informed on the impact of Concentrated Animal Feeding Operations (CAFOs). He feels they should take time and have experts come in. He said other committees may have overlooked more effective moratorium options. He also said he feels the commission may have been misled in regard to other state and federal regulatory guidelines regarding CAFOs. He shared the MPCAs role regarding odors, manure, and feedlots.

Mark Geihl, a former Planning Commission member spoke and said he understands the responsibilities of the board. He said one of the responsibilities is to visit the site being proposed, and he doesn't know how an intelligent decision can be made without visiting the site. He said a feedlot would be damaging to that area and encouraged the board to vote no.

Mark Fritz, one of the Land O' Lakes Duck Club owners spoke. He said that he googled CAFOs and didn't find flattering info. He said it would be nice to have all the facts up front, and asked if it needs to be approved tonight or if they can get more info.

222 Blomseth clarified that they have to act on it tonight unless the applicant chooses to table.

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224 John LaFond spoke and commented that the applicant said it was non-shoreland in the  
225 application, but it is shoreland. He said the DNR has classified Rassum as a Natural Environment  
226 Lake. He said the Application says it won't harm the use in the vicinity, but there will likely be  
227 multiple impacts. He reiterated comments that had been made about not shooting a gun within  
228 500 feet of a building, he stated there needed to be a better site map, that the MPCA will require  
229 an EAW, and that questions 6a-6d should have been filled out but weren't so the application  
230 should be rejected.

231

232 Lindow asked if the hunt club would be given permission to shoot within five hundred (500) feet  
233 of the building, what would that do to the people working there?

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235 LaFond said he thinks it puts the workers and animals at risk.

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237 Bernie Meyer spoke and shared his concerns regarding growth hormones and antibiotics. He  
238 asked how much water usage will be required for operation, how it will affect the water table,  
239 and asked what will happen to the lake and wetland.

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241 Mike Hutchinson spoke and inquired as to why this location was chosen.

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243 Lindow asked Hutchinson how he sees this operation in regard to the word farm.

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245 Hutchinson said it is a factory farm.

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247 Matthew Davis read a letter on behalf of Bill Henke and is entered below:

Dear Becker County Planning Commission Members,

On behalf of the Detroit Lakes Prairie Woods Chapter of the Izaak Walton League of America, I, Bill Henke, Chapter President respectfully request that you deny the William and Karolyn Zurn application for conditional use permit for an industrial swine confinement complex whose size and corporate ownership has not been disclosed, in Section 5, Hamden Township, Becker County.

As background, League policy “urges states to establish a moratorium on NEW CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO’s) so that studies on water quality, land use and manure distribution, utilization, and application can be completed and EVALUATED.”

A denial of this application is justifiable for many, many reasons. At the most basic level, it is abundantly clear that most Becker County citizens, and especially those serving at a policymaking level have very little understanding of the distinction between these OBSCURE large corporate owned industrial complexes and the FAMILY (including family corporations) owned farming and livestock operations.

MAKE NO MISTAKE---these CAFO’s are in no way farms or representative of farming. These are migratory, factory-style industries that are in search of clean water, and townships and counties that are not prepared to cope with their sudden emergence and unrelenting proliferation. All this as they escape the confined animal infectious diseases they have fostered, the wholesale water and land degradation they have caused, and the farming communities they have helped divide.

It is also abundantly clear that you, as Planning Commission members have not been given sufficient information or provided with the opportunity, to become fully knowledgeable of the pros-cons and the risks and costs that clearly outweigh the benefits of these operations. It is particularly unfortunate that you were not obliged or even encouraged to visit the proposed CAFO site. It is our sincere hope that the videos that our chapter members prepared and sent to you, featuring real life experts and citizens like you that have experienced the real impacts of CAFO’s, will help add to your knowledge base. The videos also offer practical ways that planning commissions can fulfill their obligations to prevent in our county and townships the severe impacts that these operations have created in many other places.

At this writing (4/23), only one of you has conducted a site visit to see this very fragile, water rich environment that has been chosen for this mammoth industrial facility--- MERE YARDS away from a public water natural environment lake and wetland complex that provides a home for an abundance of life. To risk polluting these waters, to disrupt the lives of its inhabitants by traffic and activity, and to allow the drainage of raw feces, urine, sow placentas and composted carcasses into the watershed through accidental spillage and upland manure application is unthinkable.

Given the lack of knowledge to even begin making a sound decision on this matter, YOU SIMPLY must step back, rethink this process and deny this application for conditional use permit. By doing so, you will be able to give yourselves, the County Board and the whole community the time and information it needs to make a much better decision. The comprehensive planning process you (the County) are about to embark on over the next year is the perfect vehicle for learning to take place. Please seek solid information, not just promises. Your neighbors and fellow Becker County residents now and, in the future will be grateful that you upheld a higher standard.

Bill Henke  
President--Prairie Woods Chapter IWLA

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Rick Muff a hog farmer spoke in favor of the project. Muff Raises hogs in Becker and Clay counties. He stated this is not industrial or corporate farming. He said he has finishing barns that are his income, that he works with a bigger entity, and that is how he makes a living. He stated that these companies invest in facilities. He also commented that antibiotic resistance and statements regarding the drugs given to the pigs are false. He said they give very few drugs to the

pigs, and that they cannot sell the pigs with antibiotics in them, and that there are required withdrawal times before that can happen. He stated that he understands no one wants these farms in their backyard, but it is a part of being in the country.

Seaberg ask Muff if his system is contained.

Muff said it is totally confined and pumped once a year. He said it's sold to farms around, and that it never sees sunlight. He said it is pumped from pit to field and injected into the ground.

Skalin asked how many animal units he has in Becker County.

Muff said approximately three hundred (300). His bigger barn is in Clay County.

Lindow asked if he's been out to the site to look at the road.

Muff said no, but if they need to get trucks in and out, they will make sure it's a road that can handle it.

Jim Blair from the swine vet center spoke and said he estimates 4.4 million gallons of water used a year at the facility. He said they have worked with the best information available to determine where to put this facility, and that they are following the comprehensive plan that currently exists. He commented that they are following the necessary steps which are first obtaining a Conditional Use Permit (CUP), then working with the MPCA, and the Department of Natural Resources (DNR) for wells. He noted that they went through this process previously and they do have knowledge of the appropriate processes.

Shawn May with the US Fish and Wildlife spoke and shared the history of Hamden slough. He talked about field trips and other events, and hunting that occur out there. He stated that the US Fish and Wildlife do have concerns that this could reduce visits to the refuge but noted that the US Fish and Wildlife does not have any regulatory jurisdiction over this CAFO, therefore they just recommend following all federal, state, and local rules and policies regarding this feedlot operation.

All letters received were read by the Planning Commission members before the hearing and are entered into record below:

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I write today to express concern about the Zurn proposal for a CAFO. Please consider:

Where is all the manure going?

What's the impact of trucks hauling feed, manure, and finished product on township roads?

Why did you reject the two men who volunteered to serve on the ad hoc committee? That smacks of silencing the opposition.

Do you know the potential capacity of this operation? Is the Zurn estimate simply a number to avoid further scrutiny?

Shouldn't we know who is financing this operation? Isn't that part of due diligence?

There is substantial information about the operation in Douglas County. Who from Becker County will be making a site visit to that operation? More due diligence?

I look forward to your response

Don Blanding



April 25, 2023

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Detroit Lakes, MN 56501

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Re: CUP Application 2023-81

Dear Members of the Planning Commission:

Fredrikson & Byron represents Landrum Lake Gun Club, LLC ("Landrum Lake") with respect to William and Karolyn Zurn's application for a Conditional Use Permit ("CUP") to operate a Concentrated Animal Feeding Operation ("CAFO") on land located in Section 5 of Hamden Township.

The Planning Commission should recommend denying the Zurn CUP Application for the following reasons:

1. It Fails Ordinance Requirements. The Zurn Application does not meet the criteria set forth in Chapter 8 of the Becker County Zoning Ordinance. Nor does the record provide a factual or legal basis for the Planning Commission to make the findings necessary to grant a CUP.
2. It Violates Minnesota Law. The Zurn Application, on its face, violates the Minnesota Regulations that govern feedlots and CAFOs.
3. It Requires an Environmental Assessment. The proposed CAFO meets the criteria for the preparation of a mandatory environmental assessment worksheet ("EAW"). If the Planning Commission refuses to make a recommendation to deny the Zurn Application, it should, at the very least, wait until an EAW is completed so it can consider the potential environmental impacts of the proposed CAFO.
4. It Violates the Moratorium in Place on the Date of Application. In September of 2022, the County Board approved a resolution that placed a Moratorium on the feedlots that would house 200 animal units or more. The Moratorium, though since revoked, was in place on the date of the CUP application.

## **BACKGROUND**

### **A. The Landrum Lake Property.**

Landrum Lake, and its predecessor the Landrum Lake Gun Club Partnership, has owned the real estate roughly outlined in blue on Exhibit A since 1975. The Landrum Lake property surrounds wetlands, including the body of water known as Rassom Lake.<sup>1</sup> Rassom Lake is identified on the Public Waters Inventory for Becker County, which is included in the Becker County Zoning Ordinance, as a Natural Environment Lake. *See* Exh. B. The Zurn CUP Application identifies Rassom Lake as being located immediately east of the CAFO site. Rassom Lake is located just over ½ mile from property that is part of the Hamden Slough National Wildlife Refuge. The northern portion of the open water identified by the Zurn Application as Rassom lake is located in Section 33 of it Hamden Township, which is located within the bounds of the White Earth Reservation.

In addition, Landrum Lake owns the wetlands that are located directly south (known as the “West Pool”) and southeast (the “South Pool”) of the proposed CAFO site. The West Pool and the South Pool may include all or part of Rassom Lake as it was historically defined. In any event, the West Pool and the South Pool are protected wetlands.

In addition to the owning fee title to the lands roughly depicted by Exhibit A, Landrum Lake also owns the right to “overflow and flood” a portion of the CAFO site by reason of impounding water to a depth of 5 feet at the dike located on the South End of the water identified as Rassom Lake on the Zurn Application. *See* the Warranty Deeds attached as Exhibit C. Rassom Lake, the South Pool, and the West Pool are all part of the Buffalo River Watershed. Water from the surrounding areas, including the CAFO site, drains to Rassom Lake. From there it travels through a water control structure to the South Pool, then west to the West Pool, where it exits the Landrum Lake complex and enters the ditch system that is part of the Buffalo River Watershed.

As a Natural Environment Lake and related wetlands, the Landrum Lake complex provides habitat for hundreds of species of aquatic and land-based plants and animals, and the lake and wetlands play a critical role in improving water quality. Historically, the Landrum Lake property has been used for hunting, recreation, and environmental protection purposes.

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<sup>1</sup> Rassom Lake is sometimes spelled “Rassum Lake” in various government documents, including the Becker County Public Water Inventory attached as Exh. B. For the purposes of this letter, “Rassom Lake” means the open water identified by the Zurn Application as Rassom Lake. It is possible that historical documents may define Rassom Lake differently.



**B. The Proposed CAFO Site.**

The proposed CAFO site is located on land that has historically been used for crop farming. As is noted above, some or all of the proposed CAFO parcel drains directly into Rassom Lake, the West Pool and the South Pool. In addition, the Zurn family has installed drain tile on some or all of the CAFO site. One or more tile outlets drain into the Lake.

Access to the CAFO site is via a relatively narrow gravel driveway. The County's GIS mapping system, which was attached to the Zurn Application, suggests that a portion of the access drive is located on land owned by Landrum Lake. See Exh. D. The Zurns have not asked Landrum Lake for permission to use and/or improve the portion of the driveway that appears to be located on Landrum Lake property in connection with the proposed CAFO operation.

**ARGUMENT**

**I. THE ZURN APPLICATION DOES NOT MEET THE CRITERIA FOR GRANTING A CUP.**

Chapter 8, Section 11, Subpart F of the of the Becker County Zoning Code governs applications for CUPs. It provides in part:

**Findings and Criteria. No conditional use shall be recommended by the County Planning Commission or granted by the Board of County Commissioners unless the Commission or the Board shall find that all of the following criteria are met** (emphasis added):

1. Affect on surrounding property. That the conditional use will not harm the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the immediate vicinity.
2. Affect on orderly, consistent development. That establishing the conditional use will not impede the normal, orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Adequate facilities. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
4. Adequate parking. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

5. Not a nuisance. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance, and to control lighted signs and other lights so that no disturbance to neighboring properties will result.

Minnesota Courts have long held that zoning authority may deny a if the proposed use endangers "the public health or safety or the general welfare of the area affected or the community as a whole." *Zylka v. City of Crystal*, 283 Minn. 192, 196, 167 N.W.2d 45, 49 (1969). A governing body's decision regarding a conditional use permit application will be reversed if the governing body acted unreasonably, arbitrarily, or capriciously. *Schwardt v. Cnty. of Watonwan*, 656 N.W.2d 383, 386 (Minn.2003). It almost goes without saying that the failure of an applicant to meet the standards set forth in the zoning ordinance provides the authority with the basis for denying the application.

The Zurn Application, including the related record, do not meet the standards set forth in the ordinance. A recommendation to grant a CUP, given the state of the record, would be arbitrary, capricious, unreasonable, and otherwise inconsistent with Minnesota law.

**A. The proposed CAFO will negatively affect the use and enjoyment of other property in the immediate vicinity.**

The Landrum Lake property is located immediately east and south of the proposed CAFO site. For almost 50 years, Landrum Lake has used their property for hunting and recreational purposes. To get a better sense of the relationship between the Landrum Lake property and the proposed CAFO site, Landrum Lake encourages the Commissioners to visit the site. Until one actually visits the site and envisions a CAFO on the proposed site, one cannot understand the scope of the impact that a CAFO will have on the property in the immediate vicinity.

Please understand that there is a clear distinction between large corporate Concentrated Animal Feeding Operations (CAFO's) and the family-owned livestock operations commonly found in Becker County. During the hearing on April 26, the Commission is likely to hear substantial testimony regarding CAFOs and their impact on the environment. Although the Zurn CUP application is short on most specifics, and silent on others (likely intentionally so) it is entirely possible that proposed project presented by the Zurn Family will be a corporate owned (the actual owner not is not disclosed in the CUP application) industrial swine factory complex. It is possible that the proposed CAFO could house 2,000 to 2,500 sows that would produce thousands of offspring and generate millions of gallons of raw antibiotic laden feces, urine, composted carcasses and sow placentas.

If the above is not enough to think twice about permitting the presence of CAFO's in Becker County, the choice of location for the proposal submitted is both misguided and unfortunate. The proposed CAFO is located in the shoreland zone of a natural environment lake. Any spills that cannot be contained will affect the nearby waters. Run-off from the large impervious surfaces will drain into the Landrum Lake wetland complex. Tile drainage from the adjacent field directly into the open water located to the east of the proposed CAFO will not only allow nitrates continued access, but now the anticipated field application of toxic, antibiotic laden manure would provide a source of non-point pollution to the lake, surrounding marsh areas, and because of drainage into Ditch 15, into the Buffalo Red River Watershed.

In addition, a 2,000 or 2,500 sow CAFO will require significant infrastructure to support it. It is anticipated that the amount of traffic will far exceed that of the "sleepy" solitary farm driveway that currently exists. The day-to-day activity, noise, the presence of large vehicles traversing to this building complex, yards away from the lake and wetlands will disrupt the waterfowl and other inhabitants. It will clearly remove the joy of the experience for the owners and their families, whether while out hunting, walking, or observing.

**B. The Zurn Application provides no information regarding the access roads, drainage, and other Facilities that will be necessary to operate a CAFO.**

In order to recommend that a CUP be granted, the Planning Commission must make a factual finding that the access roads, drainage, and the other facilities necessary to operate a CAFO have, or will be, provided. The record does not provide a basis for that finding.

Let's start with the access roads. The Zurns have not submitted any plans for how the existing driveway will be improved. None. To make matters worse, the County GIS map that Zurns included in their CUP application suggests that a portion of the driveway they propose to use as part of the CAFO operation is actually located on land that is owned by Landrum Lake. See Exh. D. Admittedly the County GIS map is not a survey. But the failure of the Zurns to include a survey, coupled with doubt created by the GIS map that is included, creates substantial doubt regarding whether the access to the proposed CAFO is even possible, let alone a basis to conclude that it will be adequate. As is noted above, the Zurns have not asked Landrum Lake for permission to use that portion of the driveway purposes, let alone to expand it in a manner that would be suitable for the proposed CAFO.

Similarly, the Zurn Application does not provide any sort of plans for drainage. Other than a reference that a storm pond will be construct and that drainage plans will be created, there is nothing. Without any specific information regarding the size and nature of the drainage plans and infrastructure, including the size and location of the drainage pond, this Commission cannot reasonably conclude that adequate measures have been or will be taken to address drainage issue.



A conclusion that the drainage will be adequate, given the Application and the record, would be on its face arbitrary, capricious and unreasonable.

Most importantly, other than providing dimensions for proposed buildings, the Zurn Application has provided no specifics regarding the buildings and improvements that will be used in connection with the proposed CAFO operation. Distilled to its essence, the only way the Commission, or the public in general for that matter, can consider whether the necessary facilities will be adequate for a CAFO operation is to have some information regarding the proposed CAFO use.

Here, that analysis starts with the number of Animal Units that will be housed in the proposed CAFO. Although the Zurn family has previously requested permission to construct a 2500 sow operation (*see* CUP Application from August of 2022), the current application is curiously silent regarding the size and scope of the proposed CAFO. By itself, the failure of the Zurns to provide any information regarding the proposed number of Animal Units that will be housed at the proposed CAFO is fatal. Without that information, the Commission cannot make a reasonable finding regarding that the facilities will be adequate.

The information provided regarding the proposed facilities is almost as weak. On this issue, the Zurns include only the dimensions for the proposed barns. Dimensions, with nothing else, do not provide a basis for establishing that the proposed facilities will be adequate. Obviously, the problem is compounded by the fact that Zurns failed to inform the Commission, and the public, regarding the number of Animal Units that they intend to house at the proposed CAFO.

For each of these areas, the Zurn Application suggests that professional firms and engineers will design the infrastructure necessary for the CAFO. A promise to hire unknown engineers to build unspecified infrastructure to house an unknown number of Animal Units is just that – a promise. A finding that the facilities will be adequate, based on a promise to hire unnamed firms to construct unspecified buildings, roads, and drainage systems, would be arbitrary, capricious, and otherwise inconsistent with Minnesota law.

**C. The Zurn Application does not establish that adequate measures will be taken to prevent offensive odors and fumes.**

It is an understatement to say most people find the odor of pig manure to be unpleasant. Although they chose not to inform the Commission and the public regarding the size and nature of the CAFO they intend to operate, it is possible that the proposed CAFO could house thousands of sows and their offspring. Whatever the actual number, it is safe to say that the CAFO that is being proposed is large, and the amount of manure it will generate will be massive. Massive amounts of pig manure will generate massive amounts of pungent, unpleasant odor.

The Zurns avoid any meaningful response to the question regarding how they will control offensive odors and fumes. Instead, they provide the empty statement that “proper management of the barns and compost facility will help reduce the odors.” The Zurns’ application raises the following questions:

1. What is the nature of the fumes and odor?
2. Will toxic gas, including hydrogen sulfide, ammonia, methane, be generated by this operation?
3. If so, how will the operation mitigate the presence of those toxic substances?
4. What does “proper management of the barns and compost facility” mean?
5. Where will the barns actually be located?
6. How will the barns be designed to reduce odor?
7. What compost facility?
8. Where will the compost facility be located?
9. How big will the compost facility be?
10. Even if the proper management efforts are taken, whatever they are, are effective, how much odor will remain?

These questions are specific to the Zurn application for the proposed CAFO site, and the failure of the Zurns to answer those questions is fatal for this application.

## **II. ON ITS FACE, THE PROPOSED FACILITY WOULD VIOLATE MINNESOTA REGULATIONS FOR FEEDLOTS.**

As is noted above, the Zurn Application contains almost no information that would permit the Commission to make the findings necessary to grant a CUP. To make matters worse, much of the information that Zurn Application does include, is incomplete or misleading. For example, the Zurn Application identifies the land to the east of the CAFO site as a “wetland” and the South Pool and the West Pool as “naturally vegetated undeveloped land.” Significantly, although its submission includes a map that identifies a body of water identified as Rassom Lake, the Zurn Application itself makes no reference to Rassom Lake. Nor does it acknowledge that Rassom Lake is identified by the Becker County Zoning Ordinance as a Natural Environment Lake.

For the purposes of their CUP Application, the failure of the Zurns to disclose to the Commission that the County has classified Rassom Lake as a Natural Environment Lake is difficult to overstate. As a public water, and as a Natural Environment Lake, Rassom Lake has shoreland. Shoreland is defined by Minn. Stat. Section 103F.205, subd. 4, which provides:

**Shoreland.** “Shoreland” means land located within the following distances from the ordinary high-water elevation of public waters:

- (1) Land within 1,000 feet from the normal high watermark of a lake, pond, or flowage;  
and
- (2) Land within 300 feet of a river or stream of the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

Again, Rassom Lake is identified by the Becker County Zoning Ordinance as a public water and a Natural Environment Lake. Accordingly, the shoreland associated with Rassom Lake extends 1000 feet onto the proposed CAFO site. Significantly, the Zurn Application makes no mention of that fact, nor does it make any effort to delineate the Rassom Lake shoreland.

The Minnesota Regulations regarding the construction of a feedlot/CAFO with a shoreland district are clear.<sup>2</sup> With very few exceptions, a feedlot/CAFO cannot be constructed in shoreland. Chapter 7020.2005 of the Minnesota Rules restricts where feedlots and CAFOs may be constructed. It provides:

**Subpart 1. Location restrictions.**

A new animal feedlot or a manure storage area must not be constructed within a floodplain or within 300 feet of a sinkhole. A new animal feedlot or a manure storage area must not be constructed within the applicable isolation distance required by part [4725.4450](#) or 100 feet of a water supply well, whichever is greater. Except as provided in items A and B, **a new animal feedlot or a manure storage area must not be constructed within shoreland** or within 1,000 feet of a community water supply well or other wells serving a public school as whichever is greater. Except defined under Minnesota Statutes, section [120A.05](#), a private school excluding home school sites, or a licensed child care center where the well is vulnerable according to part [4720.5550](#), subpart 2.

- A. An animal feedlot or a manure storage area located in shoreland meeting the requirements of part [7020.0300](#), subpart 15, item B, may resume operation after applying for and obtaining a permit under part [7020.0405](#), subpart 1. The requirements of part [7020.2100](#), subpart 1, item C, shall be followed for any liquid manure storage areas that have not been used for three years or more.

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<sup>2</sup> Chapter 7020 of the Minnesota Rules – the chapter that governs feedlots, including CAFOs, incorporates the Minnesota Statutes Section 103F.205 definition of Shoreland. See Minn. Rule 7020.300, subp. 21.



B. A new animal feedlot or manure storage area may be constructed within 1,000 feet of a community water supply well or other well serving a public school as defined under Minnesota Statutes, section [120A.05](#), a private school excluding home school sites, or a licensed child care center if the following three conditions are met:

- (1) the Minnesota Department of Health has approved a drinking water supply management area for the well under part [4720.5360](#);
- (2) the animal feedlot or manure storage area is not within the drinking water supply management area; and
- (3) the animal feedlot or manure storage area is not within 200 feet of the well.

Because the proposed CAFO does not meet the exceptions identified by Chapter 7020.2005, it may not be constructed in any property identified as shoreland.

If Rassom Lake is defined as the open water identified on the Zurn Application as Rassom Lake, there is no question that the area proposed to be used for the CAFO is within the shoreland. Even if Rassom Lake is identified as the West Pool or the South Pool, the land proposed to be used for the CAFO is still located within shoreland.

By asking the Commission to approve this use, the Zurns are asking the Commission to approve a use that, on its face, violates Minnesota Regulations. This Commission has the responsibility to consider the relevant facts and the relevant regulations, and to make decisions that are consistent with the facts and law. Here, the regulations are clear and the facts are as well. Putting the facts and the law together, the proposed CAFO cannot be constructed as proposed. Accordingly, the CUP application must be denied. A decision by this Commission to ignore the relevant law would necessarily be arbitrary, capricious, and unreasonable.

### **III. THE ZURN APPLICATION WILL LIKELY TRIGGER ADDITIONAL ENVIRONMENTAL REVIEW.**

For the reasons set forth above, the Commission should recommend that the Zurn Application for a CUP to operate a CAFO on the Section 5 property be denied. Given the state of the record, a decision to the contrary would be arbitrary, capricious, unreasonable, and inconsistent with Minnesota law. Nonetheless, even if the Commission even has an inkling of making a recommendation to approve the CUP, it should reconsider. The environmental impact that could be caused by the proposed CAFO will be significant, and it deserves full and fair study.

Chapter 4410 of the Minnesota Rules governs the environmental review of projects that may have a significant impact on our environment. The process contemplates that in certain situations, environmental study is required before a government may make a final decision regarding a

proposed project. In other cases, the relevant governmental unit has the discretion to order additional environmental review before the decision is made.

Because the Zurn Application did not provide any specific information regarding the proposed CAFO, it is difficult to establish whether the proposed project falls within the mandatory or discretionary EAW category. Chapter 4410.4300 governs identifies those projects that require a mandatory EAW, and subpart 27 governs feedlots. It provides:

**Subp. 29. Animal feedlots.**

The PCA is the RGU for the types of projects listed in items A and B unless the county will issue the feedlot permit, in which case the county is the RGU. However, the county is not the RGU prior to January 1, 2001.

- A. For the construction of an animal feedlot facility with a capacity of 1,000 animal units or more or the expansion of an existing facility by 1,000 animal units or more if the facility is not in an area listed in item B.
- B. For the construction of an animal feedlot facility of more than 500 animal units or expansion of an existing animal feedlot facility by more than 500 animal units **if the facility is located wholly or partially in any of the following sensitive locations:** shoreland; a delineated flood plain, except that in the flood plain of the Red River of the North the sensitive area includes only land within 1,000 feet of the ordinary high water mark; a state or federally designated wild and scenic river district; the Minnesota River Project Riverbend area; the Mississippi headwaters area; or an area within a drinking water supply management area delineated under chapter 4720 where the aquifer is identified in the wellhead protection plan as vulnerable to contamination; or within 1,000 feet of a known sinkhole, cave, resurgent spring, disappearing spring, Karst window, blind valley, or dry valley.

Although the Zurns did not provide a specific number of animal units as part of their application, we believe that the proposed CAFO will be used to house more than 500 animal units. If that is the case, an EAW will be mandatory, as the proposed facility will be located partially in shoreland. As part of the CUP process, the Commission must consider the environmental impact that may be caused by the proposed project. An EAW will provide information that will assist the Planning Commission in making its findings and ultimate recommendation to the County Commission. At the very least, this matter should be tabled until a decision regarding whether the project requires a mandatory EAW.



Because the Zurns have not provided any detail regarding their proposed CAFO, it is possible that the proposed use may not trigger a mandatory EAW. That would not, however, end the discussion regarding additional environmental review for the proposed use. Pursuant to Chapter 4410.1100, any person may request the preparation of an EAW for a project by filing a petition that contains the signatures of 100 individuals who reside in or own property in Minnesota. In the unlikely event that the Zurns represent to this commission that their proposed CAFO will be limited to fewer than 500 animal units, thus avoiding a mandatory EAW, Landrum Lake and others will be filing a petition pursuant to Chapter 4410.1100, and we expect that the petition will be filed within 10 days of the Planning Commission hearing. Again, at the very least, this matter should be tabled until a decision regarding the preparation of an EAW is made.

**IV. THE ZURNS FILED THEIR APPLICATION AT A TIME WHEN A COUNTY MORATORIUM ON FEEDLOTS WAS IN PLACE.**

In September of 2022, the Becker County Board of Commissioners enacted a 1-year Moratorium on feedlots in excess of 200 animal units. Although there have been questions raised regarding whether the process to enact the moratorium was proper, no party challenged the validity of the Moratorium, and the Moratorium remained in place until April 18 when the County Board took formal action to end the Moratorium.

The Zurns filed their application on or about March 16, 2023, when the Moratorium on applications for CAFO facilities that would house in excess of 200 animal units was in place. To the extent the Zurn CUP application seeks a CUP to operate a CAFO that will house more than 200 animal units, it must be denied. On the date the application was filed, such applications were prohibited by Becker County.

The fact that the County now believes that it improperly enacted the Moratorium, that the County believes the Moratorium may not have survived a Court challenge, and the fact that the County took action to end the Moratorium on April 18, does not alter the analysis. The critical facts remain: The County enacted a 1-year Moratorium in September of 2022; no party challenged the Moratorium; and the Moratorium was in place in March of 2023, when the Zurns filed their application. The Zurn Application, when viewed through the lens of the law that was in place on the date it was filed, must be denied. To allow the Zurn Application to proceed, given the change to the status of the Moratorium, would both deny the residents of Becker County the opportunity to fairly participate in the process and violate fundamental principles of due process.

**CONCLUSION**

In order to make a recommendation that the CUP be granted, the Planning Commission must make the findings that are required by the Becker County Ordinance. For the reasons set forth above, the Zurn Application and the related record do not provide a basis for making those findings. Accordingly, we respectfully request that the Planning Commission make a recommendation that the Zurns application for a CUP be denied.

Very truly yours,



Steven J. Quam  
Direct Dial: 612.492.7183  
Email: squam@fredlaw.com

SJQ:jlb:78969461 v1  
Enclosure

cc: Brian W. McDonald, Becker County Attorney



## APPENDIX A

### Shoreland Classification Lists and Development Standards

The public waters of Becker County have been classified consistent with Minnesota Regulations, Part 6120.3000, and the Public Waters Inventory Map for Becker County, Minnesota.

#### 1. RIVERS AND STREAMS LEGAL DESCRIPTION

##### A. REMOTE RIVERS

River Name:	From:	To:
Shell	Outlet of Shell Lake in Section 18, T140N, R37W	East section line of Section 9, T140N, R37W
Otter Tail	Outlet of Round Lake in Section 18, T141N, R38W	West section line of Section 23, T141N, R39W
Otter Tail	Outlet of Blackbird Lake in Section 16, T140N, R39W	Inlet of Rice Lake in Section 22, T140N, R39W

##### B. FORESTED RIVERS

River Name:	From:	To:
Shell	West section line of Section 10, T140N, R37W	Border of Hubbard and Becker Counties
Straight	Outlet of unnamed wetland 79W in Section 24, T141N, R37W	Border of Hubbard and Becker Counties
Otter Tail	East section line of Section 22, T141N, R39W	Inlet of Chippewa Lake in Section 3, T140N, R39W
Otter Tail	Outlet of Height of Land Lake in Section 5, T139N, R39W	South section line of Section 14, T139N, R40W

##### C. TRANSITION RIVERS

River Name:	From:	To:
Redeye	Outlet of Wolf Lake in Section 25, T139N, R38W	South section line of Section 1, T138N, R38W
Otter Tail	North section line of Section 23, T139N, R40W	South section line of Section 12, T138N, R40W
Buffalo	East section line of Section 14, T141N, R42W	West section line of Section 21, T141N, R42W



**D. AGRICULTURAL RIVERS**

<b>River Name:</b>	<b>From:</b>	<b>To:</b>
Redeye	North section line of Section 12, T138N, R38W	Border of Otter Tail and Becker Counties
Otter Tail	North section line of Section 13, T138N, R40W	Border of Otter Tail and Becker Counties
Buffalo	Outlet of Buffalo Lake in Section 2, T140N, R41W	West section line of Section 13, T141N, R42W

**E. TRIBUTARY STREAMS**

All protected watercourses in Becker County shown on the Protected Waters Inventory Map for Becker County, a copy of which is hereby adopted by reference, not given a classification in Items A-D above shall be considered "Tributary".

**2. BOUNDARY LAKES.**

The following lakes are lakes with a county number other than Becker that does have shoreland in Becker County:

<b>County:</b>	<b>County Lake Number:</b>	<b>Lake Name:</b>	<b>Lake Classification</b>
Clay	14-2	Anderson	NE
Clay	14-3	Anderson	NE
Clay	14-4	Tilde	NE
Clearwater	15-4	Bogus	NE
Clearwater	15-108	Pickerel	NE
Hubbard	29-310	Brush	NE
Hubbard	29-311		NE
Hubbard	29-312	Cedar	NE
Hubbard	29-313	Little Man-Trap	RD
Otter Tail	56-229	Murphy	NE
Otter Tail	56-247	Carroll (Fisher)	NE
Otter Tail	56-368	Graham	NE
Otter Tail	56-369	Six	RD
Mahnomen	44-3	Tulaby	RD

### 3. PUBLIC WATERS CLASSIFICATION FOR BECKER COUNTY

Shore Impact Zone      Building setback

Key: NE - Natural Environment Lake.      75 feet      150 feet  
 RD - Recreational Development Lake      50 feet      100 feet  
 GD - General Development Lake      37.5 feet      75 feet

Numbers in parenthesis ( ) indicate lake acres in other counties.

Lake ID #	Lake Name	Township	Sections	Acres	Lake Frontage Required	Lot Area Required in Sq.ft	Classification
366	Abbey	Lake View	14, 23	286	300 ft	120,000	NE Tier 2
39	Abners	Savannah	17	100	350 ft	140,000	NE Tier 3
258	Acorn	Burlington	20,21,28,29	144	150 ft	40,000	RD
266	Albirtson	Burlington	35, 36	73	150 ft	40,000	RD
432	Anderson	Callaway	21, 22, 28	44	250 ft	120,000	NE Tier 1
567	Apple	Spring Creek	5, 6	73	250 ft	120,000	NE Tier 1
496	Arrow	Lake Eunice	18, 19	18	300 ft	120,000	NE Tier 2
104	Aspinwall	Pine Point & Round Lake	30, 31, 25, 36	178	350 ft	140,000	NE Tier 3
521	Audubon	Audubon	N 15, 16	91	150 ft	40,000	RD
660	Axberg	Lake Park & Clay Co	19, 24	24 (47)	300 ft	120,000	NE Tier 2
336	Bad Boy	Maple Grove	19	44	350 ft	140,000	NE Tier 3
85	Bad Medicine	Forest	4, 5, 7 - 9, 17 - 19	782	150 ft	40,000	RD
478	Baker	White Earth & Spring Creek	19, 24	41	100 ft	20,000	GD
652	Balke	Atlanta	24, 25	121	250 ft	120,000	NE Tier 1
178	Ballard	Height of Land	10, 11, 14, 15	64	350 ft	140,000	NE Tier 3
292	Balsam	Holmesville	11, 12	148	350 ft	140,000	NE Tier 3
Lake ID #	Lake Name	Township	Sections	Acres	Lake Frontage Required	Lot Area Required in Sq.ft	Classification
570	Banana	Spring Creek	E ½ 16	47	250 ft	100,000	NE Tier 1
88	Bass	Forest	15, 16	208	150 ft	40,000	RD



322	Raspberry	Sugar Bush & Maple Grove	1, 36	36	350 ft	140,000	NE Tier 3
1123	Rassum	Hamden	5, 8	65	250 ft	100,000	NE Tier 1
555	Rat	Hamden & Riceville	4, 34	25	250 ft	100,000	NE Tier 1
464	Rat Farm	White Earth	SE ¼ 20, 29	41	250 ft	100,000	NE Tier 1
513	Reep	Audubon	4, 5	71	250 ft	100,000	NE Tier 1
374	Reeves (Johnson)	Lake View	22, 26, 27, 34, 35	313	300 ft	120,000	NE Tier 2
173	Rice	Silver Leaf	31	66	300 ft	120,000	NE Tier 2
201	Rice	Height of Land	22, 23, 26	245	350 ft	140,000	NE Tier 3
237	Rice	Eagle View	26, 27	34	350 ft	140,000	NE Tier 3
285	Rice	Erie	34, 35	85	300 ft	120,000	NE Tier 2
291	Rice	Holmesville	8, 17	245	300 ft	120,000	NE Tier 2
394	Rice	Detroit	13, 14, 23, 24	260	300 ft	120,000	NE Tier 2
527	Robin	Audubon	20, 21, 28, 29	45	250 ft	100,000	NE Tier 1
293	Rock	Holmesville	16, 17, 20, 21, 28, 29	1198	150 ft	40,000	RD
587	Rossman	Cormorant	3, 4, 9, 10	281	150 ft	40,000	RD
155	Round	Round Lake & Sugar Bush	6 – 8, 17, 18, 12, 13	1163	150 ft	40,000	RD
640	Round	Lake Park	NW ¼ 33	41	300 ft	120,000	NE Tier 2
25	Ruggs	Two Inlets	29, 32	48	300 ft	120,000	NE Tier 2
215	Rush	Sugar Bush	15, 16, 21, 22	51	350 ft	140,000	NE Tier 3
Lake ID #	Lake Name	Township	Sections	Acres	Lake Frontage Required	Lot Area Required in Sq.ft	Classification
653	Rustad	Atlanta	31	217	250 ft	100,000	NE Tier 1
359	Sallie	Lake View	7 – 9, 16 – 20	1287	100 ft	20,000	GD
618	Sand	Lake Park	7, 8	50	300 ft	120,000	NE Tier 2
659	Sand	Lake Park & Clay Co	7, 18, 12, 13	156 (199)	150 ft	40,000	RD
420	Sands	Richwood	27, 34	103	300 ft	120,000	NE Tier 2

648655

BECKER COUNTY RECORDER  
STATE OF MINNESOTA  
**Document No. 648655**  
February 12, 2018 at 10:50 AM  
I hereby certify that the within  
instrument was recorded in this office.  
Patricia Swenson, County Recorder  
By \_SKS\_ Deputy

No delinquent taxes and transfer entered  
this 12th day of Feb, 2018  
McLary E. Hendrickson  
Becker County Auditor/Treasurer  
By [Signature] Deputy

### WARRANTY DEED

Partnership to Corporation

STATE DEED TAX  
DUE HEREON: \$1.65

Dated: November 22, 2017

BECKER COUNTY DEED TAX  
AMT. PD. \$ 1.65  
Receipt # 1674089  
Becker County Auditor/Treasurer

FOR VALUABLE CONSIDERATION, LANDRUM LAKE GUN CLUB, a partnership under the laws of the state of Minnesota, Grantor, hereby conveys and warrants to LANDRUM LAKE GUN CLUB, LLC, a limited liability company under the laws of the state of Minnesota, Grantee, real property in Becker County, Minnesota, described as follows:

Parcel 1

14.0017-000

All that part of the Southwest Quarter of the fractional Northeast Quarter (SW  $\frac{1}{4}$  of Fr. NE  $\frac{1}{4}$ ) and that part of the Southeast Quarter of the fractional Northwest Quarter (SE  $\frac{1}{4}$  of Fr. NW  $\frac{1}{4}$ ), both in Section 4, Township 140 North of Range 42 West of the Fifth Principal Meridian in Becker County, Minnesota, described as follows, to-wit:

Beginning at a point on the North line of the said SW  $\frac{1}{4}$  of the Fr. NE  $\frac{1}{4}$ , which point is located 1063.0 feet West of the Northeast corner thereof; thence running South 19 degrees 19 minutes West 291.0 feet; thence South 35 degrees 07 minutes West 255.0 feet; thence South 02 degrees 15 minutes West 175.0 feet; thence South 66 degrees 43 minutes West 150.0 feet; thence North 19 degrees 21 minutes West 200.0 feet; thence North 88 degrees 13 minutes West 435.0 feet; thence South 55 degrees 37 minutes West 550.0 feet; thence North 75 degrees 08 minutes West 215.0 feet, more or less, to a point on the West line of the aforementioned SE  $\frac{1}{4}$  of the Fr. NW  $\frac{1}{4}$ ; thence running North on and along the West line of said SE  $\frac{1}{4}$  of the Fr. NW  $\frac{1}{4}$  a distance of 770.0 feet, more or less, to

chg  
paid  
well





the Northwest corner of said SE  $\frac{1}{4}$  of the fractional NW  $\frac{1}{4}$ ; thence running East on and along the North line of said SE  $\frac{1}{4}$  of the Fr. NW  $\frac{1}{4}$  and the North line of the SE  $\frac{1}{4}$  of the Fr. NE  $\frac{1}{4}$  to the point of beginning.

TOGETHER WITH an appurtenant easement or right of way not to exceed 1 rod wide for ingress and egress to & from the above described premises along the West line of SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of said Section 4, Township 140 North, Range 42 West of the 5<sup>th</sup> P.M. or along the East line of W  $\frac{1}{2}$  SE  $\frac{1}{4}$  & SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  & North line of SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of said Section 4.

#### Parcel 2

That part of Government Lots Numbered Two (2), Three (3) and Four (4), and a part of the Southwest Quarter of the fractional Northwest Quarter (SW  $\frac{1}{4}$  of Fr. NW  $\frac{1}{4}$ ), all situated in said Section 4, Township 140 North, Range 42 West of the 5<sup>th</sup> P.M. in Becker County, Minnesota, described as follows, to-wit:

Beginning at a point on the South line of the said Gov't Lot 2 of Section 4 which point is located 1063.0 feet West of the Southeast corner thereof; thence running North 10 degrees 12 minutes West 389.7 feet; thence North 17 degrees 22 minutes East 242.0 feet; thence North 87 degrees 31 minutes West 431.8 feet; thence North 23 degrees 16 minutes East 100.0 feet; thence North 49 degrees 04 minutes East 300.0 feet; thence North 16 degrees 13 minutes East 170.0 feet to an iron monument (2  $\frac{1}{2}$  inch diameter iron pipe) located on the North line of said Gov't Lot 2 and being at a point 1178.4 feet Westerly from the Northeast corner of said Gov't Lot 2; thence running Westerly 830.4 feet along the North line of said Gov't Lot 2 and along the North line of aforementioned Gov't Lot 3 of Section 4; thence South 28 degrees 06 minutes West 210.0 feet; thence South 37 degrees 40 minutes West 312 feet; thence South 61 degrees 22 minutes West 175.0 feet; thence South 37 degrees 06 minutes West 235.0 feet; thence North 75 degrees 53 minutes West 250.0 feet; thence South 34 degrees 07 minutes West 160.0 feet; thence South 15 degrees 38 minutes East 351.2 feet; thence South 12 degrees 44 minutes West 412.3 feet; thence South 42 degrees 10 minutes East 455.4 feet to the Southwest corner of a tract of land described in a Warranty Deed filed for record on December 28, 1953, in Book 154 of Deeds, page 523, of Becker County records; thence running North on and along the East line of said SW  $\frac{1}{4}$  of the Fr. NW  $\frac{1}{4}$  a distance of 770.0 feet, more or less, to the Northeast corner of said SW  $\frac{1}{4}$  of the Fr. NW  $\frac{1}{4}$ ; thence running East on and along the South line of the aforementioned Gov't Lots 2 and 3 of Section 4 to the point of beginning.

#### Parcel 3

See Attached Exhibit A.

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: easements, restrictions, reservations and covenants of record.

LANDRUM LAKE GUN CLUB

By William C. Henke  
William C. Henke, as Trustee of the William C. Henke Revocable Living Trust Dated the 26<sup>th</sup> Day of September, 2007  
Authorized Partner

By Nancy J. Goetzinger Henke  
Nancy J. Goetzinger Henke, as Trustee of the William C. Henke Revocable Living Trust Dated the 26<sup>th</sup> Day of September, 2007  
Authorized Partner

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF BECKER    )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of November, 2017, by William C. Henke and Nancy J. Goetzinger Henke, as Trustees of the William C. Henke Revocable Living Trust, Dated the 26<sup>th</sup> Day of September, 2007, Authorized Partners, on behalf of the Partnership.



Tarin Ladwig  
Notary Public

THE TOTAL CONSIDERATION FOR THIS TRANSFER  
IS \$500.00 OR LESS.

THE SELLER CERTIFIES THAT SELLER DOES NOT KNOW  
OF ANY WELLS ON THE ABOVE-DESCRIBED REAL PROPERTY.

Tax statements for the real  
property described in this  
instrument should be sent to:

Landrum Lake Gun Club, LLC  
c/o William Henke  
962 South Shore Dr.  
Detroit Lakes, MN 56501

NIL  
To:

This instrument was drafted by:  
PEMBERTON, SORLIE, RUFER & KERSHNER, P.L.L.P.  
903 Washington Ave  
Detroit Lakes, Minnesota 56501  
Telephone: 218-847-4858

PSR&K NOT CLOSING AGENT

SSR:dl  
2017-1921.600

EXHIBIT A

14.0023.000  
23.0183.000

Those certain lands situated in Section 5, Township 140 North, Range 42 West and in the E½ of the SW¼ of Section 33, Township 141 North, Range 42 West, described as follows:

Commencing at a point on the East line of Section 5, Township 140, Range 42, said point being 1,112.3 feet north of the Southeast corner of said Section 5 (Station 1); thence due north along the Easterly boundary of said Section 5 a distance of 1,192.6 feet to a point (Station 4); thence South 82°25' West a distance of 146.5 feet to a point (Station 5); thence south 69°35' West a distance of 126.7 feet to a point (Station 6); thence North 60°20' West a distance of 162.5 feet to a point (Station 7); thence North 37°40' West a distance of 380.8 feet to a point (Station 8); thence North 7°42' west a distance of 392.8 feet to a point (Station 9); thence North 39°16' west a distance of 203.5 feet to a point (Station 10); thence North 29°19' East a distance of 314.7 feet to a point (Station 11); thence North 18°44' East a distance of 278.4 feet to a point (Station 12); thence North 7°34' West a distance of 188 feet to a point (Station 13); thence North 18°49' West a distance of 100 feet to a point (Station 14); thence North 39°52' West a distance of 292.7 feet to a point (Station 15); thence North 2°32' East a distance of 388.5 feet to a point (Station 16); thence North 21°37' West a distance of 122 feet to a point (Station 17); thence North 8°18' East a distance of 106.5 feet to a point (station 18); thence north 22°20' West a distance of 115.9 feet to a point (Station 19); thence North 67°38' West a distance of 497.4 feet to a point (Station 20); thence North 16°27' West a distance of 678 feet to a point (Station 21); thence North 1°39' East a distance of 283.5 feet to a point (Station 22); thence North 19°24' East a distance of 353.8 feet to a point (Station 23); thence North 2°33' East a distance of 224.3 feet to a point (Station 24); thence North 37°11' East a distance of 190.8 feet to a point (Station 25); thence North 46°24' East a distance of 294.6 feet to a point (station 26); thence North 89°9' East a distance of 124 feet to a point (Station 27); thence North 40°57' East a distance of 214.1 feet to a point (Station 28); thence North 7°22' East a distance of 163.5 feet to a point (Station 29); thence North 5°44' West a distance of 150.8 feet to a point (Station 30); thence North 67°0' West a distance of 147.5 feet to a point (Station 31); thence North 86°47' West a distance of 162 feet to a point (Station 32); thence South 60°0' West a distance of 178 feet to a point (Station 33); thence South 13°24' West a distance of 349.7 feet to a point (Station 34); thence South 50°59' West a distance of 556.6 feet to a point (Station 35); thence South 20°59' West a distance of 381.6 feet to a point (Station 36); thence South 2°8' East a distance of 1,231.1 feet to the South line of Section 33, Township 141, Range 42; thence due West along the South line of Section 33, Township 141, Range 42 a distance of 100 feet to a point (Station 37); thence South 4°1' East a distance of 331.7 feet to a point (Station 38); thence South 25°17' East a distance of 355.7 feet to a point (Station 39); thence South 9°9' East a distance of 430.9 feet to a point (Station 40); thence South 21°27' East a distance of 295.3 feet to a point (Station 41); thence South 50°31' East a distance of 333.9 feet to a point (Station 42); thence South 0°27' West a distance of 199.7 feet to a point (Station 43); thence South 12°53' West a distance of 333.5 feet to a point (Station 44); thence South 28°47' East a distance of 353 feet to a point (Station 45); thence South 21°18' East a distance of 131.7 feet to a point (Station 46); thence South 5°18' East a distance of 189.8 feet to a point (Station 47); thence South 6°32' East a distance of 186.4 feet to a point (Station 48); thence South 37°0' West a distance of 442.7 feet to a point (Station 49); thence South 26°7'

West a distance of 750.4 feet to a point (Station 50); thence South 4°43' West a distance of 221.9 feet to a point (Station 51); thence South 19°39' East a distance of 166.2 feet to a point (Station 52); thence South 39°44' East a distance of 138.5 feet to a point (Station 53); thence South 0°28' East a distance of 363.6 feet to a point (Station 54); thence South 37°19' West a distance of 245.6 feet to a point (Station 55); thence South 3°28' West a distance of 114.2 feet to a point (Station 56); thence due East along the North border of the township road whose center line constitutes the South boundary of Section 5, Township 140, Range 42, a distance of 1,247.1 feet to a point (Station 57); thence North 7°28' West a distance of 164.8 feet to a point (Station 58); thence North 28°35' West a distance of 245 feet to a point (Station 59); thence North 10°50' East a distance of 214.7 feet to a point (Station 60); thence North 21°46' West a distance of 221.3 feet to a point (Station 61); thence North 2°37' West a distance of 108.8 feet to a point (Station 62); thence North 61°22' East a distance of 223 feet to a point (station 63); thence North 88°50' East a distance of 249.4 feet to a point (Station 64); thence North 78°8' East a distance of 134.6 feet to a point (Station 65); thence North 70°29' East a distance of 194 feet to the point of beginning (Station 1); together with and including a strip of land 1 rod (16½ feet) parallel to and circumscribing the tract confined by the line hereinabove described from Station 1 through and including the line returning from Station 65 to said Station 1, except that no such additional parallel one rod strip shall be included adjacent to the portion of said line lying between Stations 1 and 4, Stations 36 and 37 and Stations 53 and 57.

Together with a perpetual easement to overflow and flood these lands in the aforesaid Section 5 not confined by the line hereinbefore described by stations, which will be flooded by reason of impounding water within the area bounded by the said line hereinbefore described by stations to a depth of 5 feet at the dike and field crossing running between Stations 47 and 8, as such dike and crossing is indicated on the United States Department of Agriculture Survey Plat Number M.W. SCD-34, dated March 19, 1957, or to a depth of 3 feet at the South dike running between Stations 56 and 57 and adjacent to the Town Road as such South dike is indicated on the aforesaid United States Department of Agricultural Survey Plat Number M.W. SCD-34, dated March 19, 1957, whichever water level shall result in the greater overflow of said lands.

Together with a perpetual easement to overflow and flood those lands in the E½ of the SW¼ of Section 33, Township 141, Range 42, not contained by the line hereinbefore described by stations, which will be flooded by reason of impounding water within the area bounded by the said line hereinbefore described by stations to a depth of 5 feet at the north side of the dike field crossing running between Stations 3 and 47, as such dike and field crossing is indicated on the U.S. Department of Agriculture Survey Plat Number M.W. SCD-34, dated March 19, 1957.

A tract situate in Section 5, Township 140, Range 42, described as follows:

Commencing at a point on the North boundary of the township road constituting the Southern boundary of said Section 5, said point being 364.7 feet West of the Easterly line of said Section 5, thence from said last described point North 0°35' East a distance of 210 feet to a point; thence from said last described point North 89°25' West a distance of 252 feet to a point; thence from said last described point due South along the line to said line's intersection with the North boundary of the township road constituting the southerly boundary of said Section 5; thence from said last described point of intersection due East along the Northerly boundary of

the township road constituting the Southerly boundary of said Section 5 to the point of beginning.

Also herein conveyed are the following described tracts:

That part of Government Lot 5 and of the NE¼ of the SW¼ and that portion of the drained lake lying within the SW¼, all in Section 5, Township 140 North, Range 42 West of the 5<sup>th</sup> P.M., in Becker County, Minnesota, described as follow, to-wit:

14.0023.000

Beginning at the South quarter corner (iron stake) of said Section 5, and from which Quarter Corner is located North 89°51' East 2,644.8 feet from the southwest corner of said Section 5; thence running by the following courses and distances, viz: South 89°51' West 543.68 feet in the south line of said Section 5; North 10°33' West 261.0 feet to an iron stake; North 39°51' West 335.0 feet to an iron stake; North 08°41' West 370.0 feet to an iron stake; North 36°57' East 500.00 feet to an iron stake; North 60°58' East 636.2 feet to an iron stake on the north and south quarter line of said Section 5; thence South 00°13' East 1586.32 feet to the point of beginning and there terminating; containing 21.44 acres, more or less, in Government Lot 5 and 1.48 acres, more or less, in the NE¼ SW¼; ALSO CONVEYED are appurtenant Riparian Rights. The herein described tract is SUBJECT to an easement in the Public where the Public Road is now located and established over and across the southerly portion thereof.

That part of Government Lots 6 and 7 and that portion of the drained lake lying within the SE¼ all in Section 5, Township 140 North, Range 42 West of the 5<sup>th</sup> P.M. in Becker County, Minnesota, described as follows, to-wit:

14.0026.000

Beginning at the South quarter corner (iron stake) of said Section 5, and which Quarter corner is located North 89°51' East 2,644.8 feet from the southwest corner of said Section 5; thence running by the following courses and distances, viz: South 89°25' East 766.0 feet in the south line of said Section 5 to an iron stake; North 00°48' East 1,660.0 feet to an iron stake; South 87°04' West 795.78 feet to an iron stake on the North and south quarter line of said Section 5; and South 00°13' East 1,611.32 feet to the point of beginning and there terminating; contains 29.34 acres, more or less; IN ADDITION a tract of land described as follows: Commencing at the South Quarter corner of said Section 5, thence running South 89°25' East 766.0 feet in the South line of said Section 5 to the point of beginning; thence South 89°25' East in the said South line a distance of 16.5 feet, thence North 00°48' East 1,660.0 feet to a point, thence South 87°04' West 16.5 feet; thence South 00°48' West 1,660.0 feet to the point of beginning.

ALSO CONVEYED are appurtenant Riparian Rights. The herein described tract is SUBJECT to an easement in the Public where the Public Road is now located and established over and across the southerly portion thereof.

TOGETHER WITH AND SUBJECT TO all easements of record.



509124

CERTIFICATE OF REAL  
ESTATE VALUE FILED #248

No delinquent taxes and transfer entered  
this 1st day of April, 2004  
Keith A. Brubaker  
County Auditor, Becker Co  
By DeWacker Deputy

14.0021.000  
14.0022.000  
23.0182.000

BECKER COUNTY RECORDER-STATE OF MN

Document No. 509124

Date APR 01 2004 1:15 P.M.

I hereby certify that the within instrument  
was recorded in this office.

Deleene Mameval  
County Recorder by Ko Deputy

**FORM NO. 1-M-WARRANTY DEED**  
Individual(s) to Individual(s)

STATE DEED TAX DUE HEREON: \$1,322.99

Dated: March 26, 2004

\*

FOR VALUABLE CONSIDERATION, **Loren C. Jetvig, also known as Loren Jetvig**, a married person, Grantor, hereby conveys and warrants to **William L. Zurn and Karolyn K. Zurn**, husband and wife, Grantees, real property in Becker County, Minnesota, described as follows:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY  
REFERENCE

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: all easements, restrictions, and reservations of record, if any.

SELLER CERTIFIES THAT SELLER KNOWS OF NO WELLS ON THE ABOVE-  
DESCRIBED PROPERTY.

Pixie Jetvig, wife of Loren Jetvig, joins in the execution of this deed because of her marital interest in the subject property pursuant to Minnesota Statutes.

RECEIPT # 274969  
BECKER COUNTY  
DEED TAX  
AMT. PD. \$ 1322.98

BECKER COUNTY TREASURER

APR 01 2004

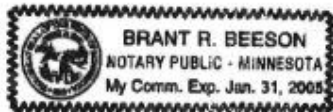
Loren C. Jetvig  
Loren C. Jetvig, also known as  
Loren Jetvig

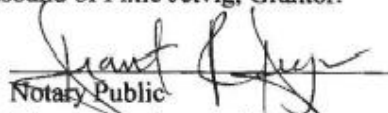
Pixie Jetvig  
Pixie Jetvig

chg  
paid  
well  
non/std  
extra  
R4001

STATE OF MINNESOTA )  
 )ss  
COUNTY OF BECKER )

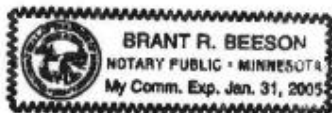
The foregoing instrument was acknowledged before me 26<sup>th</sup> day of March 2004 by  
Loren C. Jetvig, also known as Loren Jetvig, husband of Pixie Jetvig, Grantor.

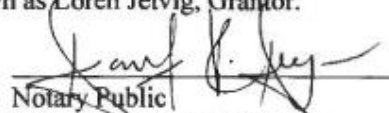


  
Notary Public  
My commission expires: \_\_\_\_\_

STATE OF MINNESOTA )  
 )ss  
COUNTY OF BECKER )

The foregoing instrument was acknowledged before me 26<sup>th</sup> day of March 2004 by  
Pixie Jetvig, wife of Loren C. Jetvig, also known as Loren Jetvig, Grantor.



  
Notary Public  
My commission expires: \_\_\_\_\_

THIS INSTRUMENT DRAFTED BY:

Brant R. Beeson  
BEESON LAW OFFICE, P.A.  
611 Summit Avenue/P O Box 70  
Detroit Lakes, MN 56502-0070  
(218) 844-5000

Send Tax Statements to:

Mr. and Mrs. William L. Zurn  
18629 County Highway No. 14  
Callaway, MN 56521-9785

BR.ks.2004-1493



PARCEL A: The Southwest Quarter or the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ ), Government Lots Numbered Three (3) and Four (4) of Section 4, the East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$ ); the Southwest Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ ) and Government Lots Numbered Two (2) and Six (6); the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ ) and Government Lot Numbered Seven (7), Section 5; all in Township 140, Range 42, Becker County, Minnesota. 14.0621.000  
14.0022.000

TOGETHER WITH an Easement over and across the dike or field crossing constructed over and across the Southeast Quarter (SE  $\frac{1}{4}$ ) of said Section 5 and as indicated on the United States Department of Agriculture Survey No. MN-SCD-34, dated March 19, 1957, said Easement to be for the purpose of transporting farm equipment and machinery and for all other farming purposes.

PARCEL B: The East Half of the Southwest Quarter (E $\frac{1}{2}$  SW $\frac{1}{4}$ ) of Section 33, Township 141, Range 42, Becker County, Minnesota.

LESS THE FOLLOWING TRACTS:

1. That part of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 5, Township 140, Range 42, Becker County, Minnesota described as follows: Beginning at the South quarter corner of said Section 5; thence North 00°13' East a distance of 1611.32 feet to an iron marker; thence North 87°04' East a distance of 503 feet to an iron marker, which iron marker is the point of beginning; thence continuing North 87°04' East a distance of 292.7 feet to an iron marker; thence continuing on the last course a distance of 107.3 feet to an iron marker; thence North 10°04' West a distance of 691.35 feet to an iron marker; thence South 88°32' West a distance of 290 feet to an iron marker; thence South 00°57' East a distance of 694.15 feet to the point of beginning.

2. A 36.11 acre tract or parcel of land comprising parts of Government Lots 2, 3 and 4, and a part of the Southwest Quarter of the fractional Northwest Quarter, all situated in Section 4, Township 140, Range 42, as follows, to-wit: Beginning at a point on the South line of the said Government Lot 2 of Section 4, which point is located 1063 feet West of the Southeast corner thereof; thence running North 10°12' West 389.7 feet; thence North 17°22' East 242.0 feet; thence North 87°31' West 431.8 feet; thence North 23°16' East 100 feet; thence North 49°04' East 300.0 feet; thence North 16°13' East 170.0 feet to an iron monument (2 $\frac{1}{2}$  inch diameter iron pipe) located on the North line of said Government Lot 2 and being at a point 1178.4 feet Westerly from the Northeast corner of said Government Lot 2; thence running Westerly 830.4 feet along the North line of said Government Lot 2 and along the North line of aforementioned Government Lot 3 of Section 4; thence South 28°06' West 210.0 feet; thence South 37°40' West 312.0 feet; thence South 61°22' West 175.0 feet; thence South 37°06' West 235.0 feet; thence North 75°53' West 250.0 feet; thence South 34°07' West 160.0 feet; thence South 15°38' East 351.2 feet; thence South 12°44' West 412.3 feet; thence South 42°10' East 455.4 feet to the Southwest corner of a tract of land described in a Warranty Deed filed for record on December 28, 1953 in Book 154, page 523 of Becker County

EXHIBIT A

records; thence running North on and along the East line of said Southwest Quarter of the fractional Northwest Quarter a distance of 770.0 feet, more or less, to the Northeast corner of said Southwest Quarter of the fractional Northwest Quarter; thence running East on and along the South line of the aforementioned Government Lots 2 and 3 of Section 4 to the point of beginning.

3. That part of Government Lots 6 and 7, and that portion of the drained lake lying within the Southeast Quarter (SEX), all in Section 5, Township 140, Range 42, Becker County, Minnesota, described as follows, to-wit: Beginning at the South quarter corner (iron stake) of said Section 5, and which quarter corner is located North 89°51' East 2644.8 feet from the Southwest corner of said Section 5; thence running by the following courses and distances, viz: South 89°25' East 766.0 feet in the South line of said Section 5 to an iron stake; North 00°48' East 1660.0 feet to an iron stake; South 87°04' West 795.78 feet to an iron stake on the North and South quarter line of said Section 5; and South 00°13' East 1611.32 feet to the point of beginning and there terminating; contains 29.34 acres, more or less; in addition a tract of land described as follows: Commencing at the South quarter corner of said Section 5, thence running South 89°25' East 766.0 feet in the South line of said Section 5 to the point of beginning; thence South 89°25' East in the said South line a distance of 16.5 feet, thence North 00°48' East 1660.0 feet to a point, thence South 87°04' West 16.5 feet; thence South 00°48' West 1660.0 feet to the point of beginning.

4. Those certain lands situate in Section 5, Township 140, Range 42, and in the East Half of the Southwest Quarter (E½SW¼) of Section 33, Township 141, Range 42, described as follows: Commencing at a point on the East line of Section 5, Township 140, Range 42, said point being 1,112.3 feet North of the Southeast corner of said Section 5 (Station 1); thence due North along the Easterly boundary of said Section 5 a distance of 1,192.6 feet to a point (Station 4); thence South 82°25' West a distance of 146.5 feet to a point (Station 5); thence South 69°35' West a distance of 126.7 feet to a point (Station 6); thence North 60°20' West a distance of 162.5 feet to a point (Station 7); thence North 37°40' West a distance of 380.8 feet to a point (Station 8); thence North 7°42' West a distance of 392.8 feet to a point (Station 9); thence North 39°16' West a distance of 203.5 feet to a point (Station 10); thence North 29°19' East a distance of 314.7 feet to a point (Station 11); thence North 18°44' East a distance of 278.4 feet to a point (Station 12); thence North 7°34' West a distance of 188 feet to a point (Station 13); thence North 18°49'

West a distance of 100 feet to a point (Station 14); thence North 39°52' West a distance of 292.7 feet to a point (Station 15); thence North 2°32' East a distance of 388.5 feet to a point (Station 16); thence North 21°37' West a distance of 122 feet to a point (Station 17); thence North 8°18' East a distance of 106.5 feet to a point (Station 18); thence North 22°20' West a distance of 115.9 feet to a point (Station 19); thence North 67°38' West a distance of 497.4 feet to a point (Station 20); thence North 16°27' West a distance of 678 feet to a point (Station 21); thence North 1°39' East a distance of 283.5 feet to a point (Station 22); thence North 19°24' East a distance of 353.8 feet to a point (Station 23); thence North 2°33' East a distance of 224.3 feet to a point (Station 24); thence North 37°11' East a distance of 190.8 feet to a point (Station 25); thence North 46°24' East a distance of 204.6 feet to a point (Station 26); thence North 89°9' East a distance of 124 feet to a point (Station 27); thence North 40°57' East a distance of 214.1 feet to a point (Station 28); thence North 7°22' East a distance of 163.5 feet to a point (Station 29); thence North 5°44' West a distance of 150.8 feet to a point (Station 30); thence North 67°0' West a distance of 147.5 feet to a point (Station 31); thence North 86°47' West a distance of 162 feet to a point (Station 32); thence South 60°0' West a distance of 178 feet to a point (Station 33); thence South 13°24' West a distance of 349.7 feet to a point (Station 34); thence South 50°59' West a distance of 556.6 feet to a point (Station 35); thence South 20°59' West a distance of 381.6 feet to a point (Station 36); thence South 2°8' East a distance of 1,231.1 feet to the South line of Section 33, Township 141, Range 42; thence due West along the South line of Section 33, Township 141, Range 42, a distance of 100 feet to a point (Station 37); thence South 4°1' East a distance of 331.7 feet to a point (Station 38); thence South 25°17' East a distance of 355.7 feet to a point (Station 39); thence South 9°9' East a distance of 430.9 feet to a point (Station 40); thence South 21°27' East a distance of 295.3 feet to a point (Station 41); thence South 50°31' East a distance of 333.9 to a point (Station 42); thence South 0°27' West a distance of 199.7 feet to a point (Station 43); thence South 12°53' West a distance of 333.5 feet to a point (Station 44); thence South 28°47' East a distance of 353 feet to a point (Station 45); thence South 21°18' East a distance of 131.7 feet to a point (Station 46); thence South 5°18' East a distance of 189.8 feet to a point (Station 47); thence South 6°32' East a distance of 186.4 feet to a point (Station 48); thence South 37°00' West a distance of 442.7 feet to a point (Station 49); thence South 26°7' West a distance of 750.4 feet to a point (Station 50); thence South 4°43' West a distance of 221.9 feet to a point (Station 51);

EXHIBIT A  
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thence South 19°39' East a distance of 166.2 feet to a point (Station 52); thence South 39°44' East a distance of 138.5 feet to a point (Station 53); thence South 0°28' East a distance of 363.6 feet to a point (Station 54); thence South 37°19' West a distance of 245.6 feet to a point (Station 55); thence South 3°28' West a distance of 114.2 feet to a point (Station 56); thence due East along the North border of the township road whose center line constitutes the South boundary of Section 5, Township 140, Range 42, a distance of 1,247.1 feet to a point (Station 57); thence North 7°28' West a distance of 164.3 feet to a point (Station 58); thence North 28°35' West a distance of 245 feet to a point (Station 59); thence North 10°50' East a distance of 214.7 feet to a point (Station 60); thence North 21°46' West a distance of 221.3 feet to a point (Station 61); thence North 2°37' West a distance of 108.8 feet to a point (Station 62); thence North 61°22' East a distance of 223 feet to a point (Station 63); thence North 88°50' East a distance of 249.4 feet to a point (Station 64); thence North 78°8' East a distance of 134.6 feet to a point (Station 65); thence North 70°29' East a distance of 194 feet to the point of beginning (Station 1); together with and including a strip of land one rod (16½ feet) parallel to and circumscribing the tract confined by the line hereinabove described from Station 1 through and including the line returning from Station 65 to said Station 1, except that no such additional parallel one rod strip shall be included adjacent to the portions of said line lying between Stations 1 and 4, Stations 36 and 37 and Stations 56 and 57.

Together with a perpetual easement to overflow and flood these lands in the aforesaid Section 5 not confined by the line hereinbefore described by stations, which will be flooded by reason of impounding water within the area bounded by the said line hereinbefore described by stations to a depth of 5 feet at the dike and field crossing running between Stations 47 and 8, as such dike and crossing is indicated on the United States Department of Agriculture Survey Plat Number M. W. SCD-34, dated March 19, 1957, or to the depth of 3 feet at the South dike running between Stations 56 and 57 and adjacent to the Town Road as such South dike is indicated on the aforesaid United States Department of Agriculture Survey Plat Number M. W. SCD-34, dated March 19, 1957, whichever water level shall result in the greatest overflow to said lands.

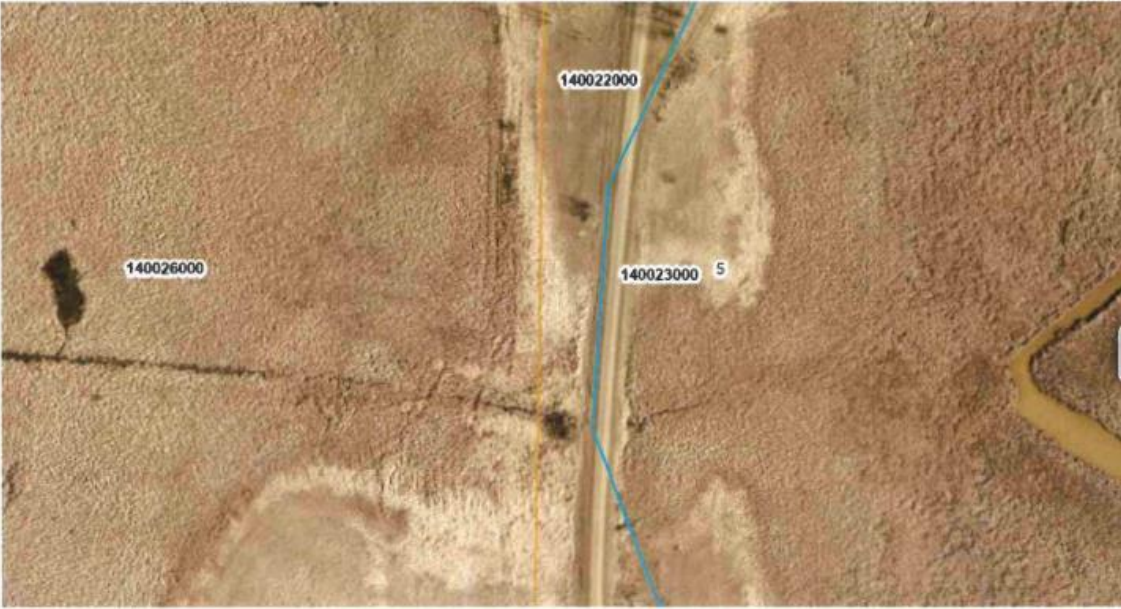
Together with a perpetual easement to overflow and flood those lands in the East Half of the Southwest Quarter (E½SW¼) of Section 33, Township 141, Range 42, not

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contained by the line hereinbefore described by stations, which will be flooded by reason of impounding water within the area bounded by the said line hereinbefore described by stations to a depth of 5 feet at the North side of the dike and field crossing running between Stations 3 and 47, as such dike and field crossing is indicated on the U.S. Department of Agriculture Survey Plat Number M. W. SCD-34, dated March 19, 1957.

5. A tract situate in Section 5, Township 140, Range 42, described as follows: Commencing at a point on the North boundary of the township road constituting the Southern boundary of said Section 5, said point being 364.7 feet West of the Easterly line of said Section 5, thence from said last described point North 0°35' East a distance of 210 feet to a point; thence from said last described point North 89°25' West a distance of 252 feet to a point, thence from said last described point due South along the line to said line's intersection with the North boundary of the township road constituting the Southerly boundary of said Section 5; thence from said last described point of intersection due East along the Northerly boundary of the township road constituting the Southerly boundary of said Section 5 to the point of beginning.





326  
327  
328

Hello members of the Becker County Board of Commissioners and the Becker County Planning Commission Members,

Attached please find my written comments and testimony to be included in the hearing record for the Zurn Conditional Use Permit Application.

Thank you,

Erika Gilsdorf  
Detroit Lakes, MN

329

Dear Planning Commission Members,

I am a resident of Detroit Lakes, MN. I strongly oppose the permitting of Concentrated Animal Feeding Operations (CAFOs) in Becker County.

CAFOs are industrial complexes, not feedlots or farms, and are owned by large corporate entities detached from our communities and in no way representative of our local regional farming community.

The reason CAFOs are 'migrating' to Becker County is to flee disease and destruction in the areas they've occupied and taken advantage of, particularly in Iowa and southern Minnesota.

CAFO's bring huge impacts to our groundwater, lakes, rivers, communities, farming community, and tourism industry.

As commissioners, it is your duty and responsibility to learn more about CAFOs and their impacts, engage in discussions, and hear from your constituents if the allowance of CAFOs in our communities of Becker County is a good fit.

This decision requires thoughtful consideration and environmental studies on our county landscapes' ability to handle the amount of water usage and the disposal of millions of gallons of untreated feces and urine produced from CAFOs. Additionally, impacts of stench, air quality, property values, road issues, noise, and the social fabric that makes us an economic engine around clean lakes and rivers, tourism and rural farming, needs to be considered.

I oppose the passing of the Zurn application for a CAFO in Becker County and strongly urge you to vote on the side of waiting for public involvement in a decision that impacts us all, and in a timeframe when we can all become more informed.

I hope you will take the time to watch the video compiled and sent to each of you to learn about CAFOs and impacts on rural communities like ours.

This is not an issue you each, or our communities, need or should be pushed into passing at this time.

We deserve more than that from our county commissioners serving Becker County and Minnesota.

330



1248 South Shore Drive  
Detroit Lakes, Minnesota 56501  
25 April, 2023

To Becker County Planning Commission  
Subject: Zurn family swine feedlot construction request

To assess benefit or absence thereof of a swine feedlot being constructed and ongoing must be viewed through the lens of planet health. Currently global warming is happening at an accelerated pace with carbon dioxide and methane aggravating man's chances of halting it.

As people get richer, they eat more calories. That includes meat and dairy. To raise that meat is more costly. For example, a pig eats three times the calories as we get when we eat pork.

Chemical content, and this is critical, of a swine feedlot is weighed down with toxins. All animals create release of carbon, of methane—many times worse—as they belch, as they, forgive me, fart, and as they poop. We must find ways to combat this world problem. As we all know, that must start at home. In the case of a swine feedlot, that is a cesspool of toxicity.

Soil? Water? Those two commodities easily, with winds, precipitation, storms and tornadoes, dissipate in all directions. Above all, man cannot afford to have clean water threatened. That, too, will end mankind on Planet Earth.

In the name of our planet, I cannot support a dense concentration of a product that shortens the existence of mankind on Earth. There are healthier options for both man and the planet.

Very truly yours,

Sally Hausken

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Dear Nicole,

As a private citizen, I share with some of the members in our Creation Care Team at First Lutheran Church in Detroit Lakes, concerns about the potential environmental effects of the proposed Industrial Swine Operation in our area. I believe our Creator God commands us to be good stewards of our land, water, air and animals, and to advocate for these and our farming families. I have heard from friends in Iowa and read from Minnesota farmers that large industrial Swine operations can harm water supply by lowering water tables, depleting wells, and endangering the health of local lakes and rivers; that too often the manure is not adequately managed/disposed of; that odor problems are a real concern for neighbors. It is my understanding the State of North Dakota has decided not to allow these types of large industrial operations, in order to protect our local family farms - I remember a member of my own family operating a beautiful and healthy pig farm in Northern Minnesota years ago. I hope our Minnesota Pollution Control Agency has thoroughly inspected this proposal, and I'm hoping this proposal will be wisely discerned.

Thank you for hearing this concern.

May God bless you in all your decisions for our communities,  
Pastor Lauryl Ivers, Associate Pastor, First Lutheran Church

April 25, 2023

I am writing this to express my strong opposition to the Zurn Swine Feedlot (Permit #CUP2023-81). As a member of the Landrum Lake Gun Club, LLC (*owner of property adjacent to the proposed feedlot*) and a concerned citizen I cannot support this feedlot for several reasons.

First, this swine feedlot will pose serious environmental consequences to the Landrum Lake Gun Club property and surrounding properties. Much of our property is deemed a wetland area and will be subject to contamination from ground water and runoff water from the feedlot. The waste from this feedlot can leach dangerous contaminants onto our property causing algae blooms and serious water quality problems. The property is a sensitive habitat for many wildlife species, nesting and migratory birds that will be negatively impacted.

Furthermore, the noise and odor from the feedlot will pose additional concerns. The increase in traffic, unbearable odor and the contaminants in the air will have a negative impact on the surrounding properties and property values.

In addition, my family has enjoyed using this property for almost 50 years. My father taught my brother and I how to hunt on this property. Our memories are treasured and the stories we share repeatedly hold a special place in our hearts. This proposed feedlot will jeopardize our future use of the property that I wish to share with family members.

In conclusion, I hope that all opposing views and concerns are given the utmost attention and that this proposal is defeated. Thank you for your attention to this matter.

Sincerely,



Matt Marótzke

Dear Ms. Hultin,

The email text below and video found at this link: <https://youtu.be/RtgXwo5fzXk> a link that is also embedded in the email text is hereby officially submitted into the hearing record in the matter of the William and Karolyn Zurn Conditional Use Permit.

As noted below, all Planning Commission members save for Commissioner Tom Disse who does not have an email address have received the link to this video.

By prior arrangement, Mr. Kyle Vareberg agreed to make the video available to Commissioner Disse by other means before the hearing.

Thank you,

Willis Mattison on Behalf of the Prairie Woods Chapter of the Izaak Walton League of America, Minnesota Division  
42516 State Highway 34,  
Osage, Minnesota 56570

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Members of the Becker County Planning Commission,

By special permission of the Becker County Board of Commissioners granted at their regular meeting on Tuesday April 18<sup>th</sup> of this year the Prairie Woods Chapter of the Izaak Walton League of America,

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Minnesota Division hereby submits video testimony found at this YouTube link: <https://youtu.be/RtgXwo5fzXk> into the public hearing record for your and the Becker County Board of Commissioner's consideration.

By copy of this email members of the County Board are, at their request, also being furnished this same information. Courtesy copies are also being provided to Mr. Pat Oman, Becker County Administrator and Mr. Kyle Vareberg, Becker County Planning and Zoning Administrator.

This video testimony is in regard to the Zurn Feedlot Conditional Use Permit Application (copy attached) that is pending before the Commission and for which a public hearing will be held on Wednesday April 26<sup>th</sup> a 6:00 P.M.

All testimony at Planning Commission meetings is ordinarily received only by email, in writing or in person. Therefore, this is a special exception to the publically noticed rules for receiving testimony in regard to the subject Zurn feedlot Conditional Use permit specifically granted to the League by the County Board for this purpose..

This 80 minute long video is to be viewed in its entirety by each member of the Commission **before** the hearing as the video **will not be shown** at the hearing. The League insists that the Commission make its decision based the entire public record in this matter therefore your viewing of this material is not optional.

The content of the video is germane to the Commission's criteria for evaluating this and all other conditional use permit applications and therefore should be given the same full and equal consideration during the Commission's deliberation as it would any other oral, email or written testimony that is offered at the hearing. The video is available for download and made a permanent part of the official record in this matter.

The video testimony includes remarks by the following individuals who consented to having their remarks made publically available for all who may benefit from their experience, expertise and special knowledge of Confined Animal Feeding Operation (CAFO) impacts..

**Sonja Trom Eayrs**

Attorney, Farmer's Daughter and Rural Advocate  
Dodge County Concerned Citizens

**Lisa Doer**

Commercial Hay Producer, Polk County, Wisconsin  
Chair – Large Livestock Town Partnership Committee

**Jeff Forester**, Executive Director of Minnesota Lakes and Rivers

**Jeffrey S. Broberg**, LPG, Licensed Professional Geologist and the  
Director of Minnesota Well Owners Organization

**Ashlen Busick**, Food & Farm Network Manager for SRAP - Socially Responsible Agriculture  
Project

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Other members of the Prairie Woods Chapter may be submitting either written or oral testimony in this matter at the public hearing or by email in advance of the hearing.

Respectfully submitted,

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Willis Mattison, on behalf of the Prairie Woods Chapter, Izaak Walton League of America,  
Minnesota Division.  
42516 State Highway 34  
Osage, Minnesota 56570  
Phone: 218-841-2733

I am concerned about the ability to safely and effectively dispose of the animal waste that will be generated by a lot of this size without saturating the soil and contaminating nearby wetlands and streams. I'm also concerned about controlling the odor that will be generated. I also fear that approving this request will lead to more commercial feed lots.  
Mike Nustad

Dear Planning and Zoning,

I was alarmed reading the letter about CAFOs from Erika Gilsdorf in last week's paper. I don't know much about these, but this seems like a terrible idea to allow a permit.

When I look at the parcel on the interactive GIS map, there's a lake in the parcel immediately adjacent to that. What will this operation do to that lake and the rest of the water in that area of the county? Water quality is of utmost importance to all of us. How far out will the effects be seen?

Please do not allow this to be permitted.

Jim Olson  
24192 Vacation Ln  
Rochert, MN 56578

Dear Commissioners. I am Timothy Bergien, a longtime resident of Detroit Lakes and a past partner of the Landrum Lake Gun Club. A few years ago I assigned my share to my son. Our wetlands border Mr Zurns land on the East and Southeast of the land applying for the permit. During my years of membership we had a good relationship with Mr Zurn. We gave him permission to construct, I believe, two field drainage systems into our waters. The water from the fields tested positive for the usual agricultural field chemicals. Now we are looking at a much larger operation, that if a spill occurs, would be much more detrimental to our waters. The distance this proposed development is from the Zurn residence is approximately one and a half miles as the crow flies. There is no direct route. It seems to me you would have it closer to your farmstead. There is a house immediately to the south that I have heard Mr Zurn is interested in purchasing. Has he been asked if he has a silent partner that will buy him out in the future? A large hog operator- corp maybe? I guess what I am saying is that I agree with my former partners that this is not the place for a hog farrowing operation. Thank you.  
Timothy Bergien  
Sent from my iPhone

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I believe this CAFO proposal is merely the “Tip of the iceberg” for the further development of “factory farms” in Becker County. If the County opens the door, Becker County residents should prepare to suffer the negative consequences of having this industry neighbor among us. As we learned by listening to people from southern Minnesota and northwestern Wisconsin, this industry comes with serious impacts to the environment, to neighbors quality of life, to family farms, and to the social fabric of the community. It is not another of the family farms that are pervasive in Becker County and our region.

**I’ve wondered lately: Why is the swine industry moving north and into Becker County? Is it because they have already fouled the water and filled the air with respiratory disease in Iowa and Southern Minnesota and thus they need to move north to where the air and water are clean?**

My first thought when reading the application was *“where is all the pertinent information that will help the public and the Planning Commission know what this project actually entails?”*

One of your criteria for Conditional Use Permit Approval (or denial):

1. The applicant must show how they will not harm the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted and not substantially diminish or impair property values with the immediate vicinity;

This building itself may or may not “harm the use and enjoyment of other properties in the immediate vicinity” and may or may not “substantially diminish or impair property values.” The building; however, is only the start of this project’s impacts which go way beyond the “construction of this site.” It’s more than the building...it’s more about what comes out of the building - the hogs and the factory waste. *Where will these hogs go? How many other facilities will be built in the near future to raise those hogs? What will happen to all the waste they generate? What about the air quality impacts? What about all the impacts to the area’s roads?*

2. Describe how establishing the conditional use will not impede the normal, orderly development and improvement of surrounding vacant property for uses predominant in the area.

None of the adjacent land to this site will be affected during or after the construction of this site. It is anticipated that all the surrounding land will remain in its current state.

The spreading of the factory farm waste (feces, urine, placentas, antibiotics, etc) from the hogs grown in it will most certainly harm the use and enjoyment and substantially diminish or impair nearby property values. That has happened in Iowa, in southern Minnesota, and northwestern Wisconsin.

Becker County needs more information on the proposed facility before making a decision on granting a permit.

- 1) How many animal units will this facility contain? How can an application be submitted without that basic information included? This determines what level of environmental review occurs.
- 2) How many acres are needed for the land spreading the waste from this facility?
- 3) Where are they located?
- 4) Who owns them? Have these landowners agreed to take this waste?

- 5) Who reviews the facility's manure management plans?
- 6) Who monitors the spreading of that waste to ensure that it follows the manure management plans?

*5. Describe how adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance, and to control lighted signs and other lights so that no disturbance to neighboring properties will result.*

**All building setbacks to the property lines will be met. The site will also be over the minimum distance to lakes and rivers. The nearest residence will be over 2800' from the site. Proper management of the barns and compost facility will help reduce odors. The MPCA feedlot permit contains measures to minimize disturbance to neighbors. Once construction is completed and the site is operational, the site will not have significantly more traffic than a typical farm site. Dust during construction can be controlled by watering if needed.**

"The MPCA feedlot permit contains measures to minimize disturbance to neighbors."  
That is simply not good enough for Becker County to rely upon the MPCA given that the regulatory system has so many holes in it and industry often sneaks around thresholds to avoid expense (e.g. 999 animal units instead of 1,000).

This application for a CUP is asking Becker County residents to sign a blank check to the applicant, to the industrial agriculture system behind the operation (and subsequent operations), and to all the negatives that come with it. For this reason, I respectfully ask that the Planning Commission vote to recommend the County Board deny this CUP.

Sincerely,

Matthew Davis

Lakeview Township resident

*Applicant: William and Karolyn Zurn*

*Project: TBD 270<sup>th</sup> Street Audubon, MN*

*Application: Request a Conditional Permit to operate a feedlot*

*Comments from Randy Guetter, Hamden Township*

Dear Planning Commission,

Currently I farm in the area and was raised in southern MN where our family were hog producers. My uncle continues to have a finish operation in southern MN. We had a farrow to finish operation.

I understand farming and the need for our agricultural industries. However, additional information on Zurns proposed Hog Feedlot project is needed. Even someone with my background has a hard time understanding what the focus of this operation will be and what will be produced as part of the "hog operation". Minimally an EAW and more details regarding the operation should be required for a hog production of this size.

My questions/comments in red

- 1.
- 2.
3. Becker County requires an
4. **Environmental Assessment Worksheet (EAW)**
5. on the proposed project. *If*
6. *Becker County will not require an EAW, then residents should petition the Environmental Quality Board to request an EAW and/or EIS (Environmental Impact Statement).*
- 7.

NOTE: An environmental review is NOT an approval process:

- 
- 
- It's an
- information-gathering process

- intended to help public agencies make informed permitting and approval decisions
- 
- 
- 
- Gives the public access to decision makers
- 
- 
- 
- Ensures public awareness and meaningful input into decision making
- 

The EAW will describe a proposed project, its potential effects on air, land, and water resources, and ways to reduce negative environmental effects. When the review identifies unacceptable environmental impacts, the project's proposers can make changes. The information is also used to establish permit conditions that will protect our environment.

**NOTE:** *Becker County has required EAW's and EIS for shoreland projects:*

**Environmental review.** The Department, along with the assistance of the Environmental Review Technical Panel, may recommend that a discretionary Environmental Assessment Worksheet (EAW) be prepared for the proposed project or a project that meets mandatory threshold requirements for an EAW. If the Environmental Review Technical Panel recommends that an EAW is to be completed and the County Board of Commissioners approves this recommendation, the EAW must be completed prior to the conditional use permit application.

*Following are excerpts from the conditional use permit sent to the Planning Commission. My questions/comments in red*

**OWNERS:** - Authorized Agent form lists James Blair Sr., Swine Vet Center, St. Peter, MN as an authorized agent for this project. *Who is applying for this CUP 2023-101491? Please also list this James Blair Sr. – Swine Vet Center on any approvals.*

**Description Of Operation:** *Should contain a narrative description describing the proposed CAFO, including the species of animals that will be confined, the number of animals that will be confined, the composition of the herd, and a description of the structures and other facilities that will be required to confine, feed and care for the animals and remove the solid and liquid waste produced from the CAFO.*

**Project Boundary Map:** A map showing the boundaries of the CAFO Property (*how many acres will be part of this project? What is the exact BOUNDARY OF THE PROPOSED PROJECT?*) as well as the boundaries of the CAFO Site and the CAFO Density Acreage together within any real property within one mile of any external boundary of the confined animal feeding operation:

1. Land Uses: Existing land uses;
2. Water Bodies: Existing ditches, canals, live streams or other bodies of water, together with any floodway demonstrating compliance with the setback requirements set forth in State and Local Ordinances. No CAFO Site shall be located within an area that is a high water table area or wetland area in regards to the water table level as determined by a soil survey map from the natural resources conservation service (NRCS).
3. Wells: Wells (domestic or agricultural) within a one mile radius of any proposed barn, corral, lagoon, other structure for containing liquid waste, feed storage area or feed storage structure associated with the proposed CAFO.
4. Structures: The dimensions and locations of barns, corrals, lagoons, other structures for containing liquid waste, Composting Operations, feed storage areas, and feed storage structures on the proposed CAFO Site.

**5. Residences and Roads:** The location of all residences, other buildings intended for human occupancy, and all public roads on the CAFO Site and within a one mile radius of the CAFO Site boundaries

*The following has been taken from similar documents for presentation of relevant information. Again, information along these lines should be included with submissions for the type in question.*

**G. Topographical Map:** A separate topographical map shall be submitted showing elevation contours at intervals of not less than 2 feet.

**H. Waste Management:** A narrative concerning the waste management plan of the CAFO site, including, but not limited to, the exact means and methods by which the applicant proposes to dispose of liquid and solid waste generated from the CAFO. The narrative statement shall include a description of the means and methods by which the applicant will ensure that solid and liquid waste will not escape the boundaries of the confined animal feeding operation, or enter the waters of the United States of America, together with an operations plan for any Composting Operation undertaken by the CAFO. The acres required for the waste management system, as determined by the Nutrient Management Plan (NMP). Such identified acres as are included in the CAFO Property, shall not be included in any other CAFO Property or for considerations for any other NMP purposes and shall not be used for other agricultural purposes involving livestock, poultry, fur bearing animals, or any other animal, regardless of whether or not such agricultural uses would constitute a CAFO.

**I. Water Rights:** A writing from the MN DNR, including a profile of all water rights necessary for the operation of the confined animal feeding operation would allow sufficient water rights to permit a lawful operation of the new confined animal feeding operation.

**K. Statement Of Compliance:** A notarized statement that the applicant (*Zums and Swine Vet Center*) will, as a condition of permit approval, (i) construct and operate the confined animal feeding operation consistent with its application for a CAFO permit; (ii) operate consistent with the nutrient management plan in keeping with the lawful directives of the state of MN DNR, MPCA, Dept of with respect to location and construction of lagoons, the application of liquid and solid waste from the CAFO and other matters within the jurisdiction of the department of MPCA, Dept of AG, MN DNR (iii) not modify the CAFO Property subject to the CAFO permit.

Thank you for your consideration.

-Randy Guetter



April 26, 2023

Dear Becker County Planning Commission Members,

There are a litany of reasons why CAFOs are dangerous and a largely misguided concept. However, I'd like to make you as citizens of Becker County aware of a frightening human public health risk associated with large numbers of animals (livestock) confined in a CAFO. This huge risk is the ever-growing resistance by bacteria and fungi to the antibiotics used by our healthcare professionals.

Did you know that the United States Center for Disease Control (CDC) in 2019 (most recent data available), reported 2.8 million antibiotic resistant infections resulting in 35,000 deaths of our fellow citizens?

Did you know that according to the CDC, in addition to inappropriate and overuse of antibiotics in humans, extensive use of antibiotics globally in agriculture to prevent and treat infections and promote growth is a leading cause of emerging antibiotic resistance? While using antibiotics to solely promote livestock growth was banned in the U.S. in 2017, significant use to prevent disease in animals continues. Keeping huge numbers of confined animals healthy is an extremely daunting task which should be no surprise to anyone.

Most recent statistics from FDA sales data indicate that 60-75% of all antibiotics sold in the U.S. are purchased and utilized in agriculture. A February 6, 2023 article in the Journal Nature indicates that antibiotic use in animal farming is expected to continue to grow into the next decade despite all efforts to curtail their use.

Antibiotics utilized in large, animal confining buildings transmit to humans by the food we ingest and the huge quantities of manure (fertilizer) that inevitably make their way into our waterways and ground water. This persistent exposure to antibiotics from ALL sources opens the door for bacteria and fungi to evolve and resist these essential medications.

In response, hospitals and clinics have constructed stewardship programs aimed at diminishing unwarranted antibiotic use in humans. Despite these efforts, health care providers are already struggling mightily to stay ahead of these "superbugs" with an ever-shrinking antibiotic arsenal. They are even confronting situations where there are no antibiotic choices left to treat often life-threatening infections. While it may be easy to believe that this is someone else's problem in a far-removed place, guess again!

Please consider the public health reasons of why these large industrial complex animal confining operations are not a good idea to allow in Becker County. Please start tonight by denying the application for conditional use permit of this swine operation.

Thank you,

Dr. Bill Henke  
Detroit Lakes, MN





## WHITE EARTH RESERVATION

CHAIRMAN Michael Fairbanks SECRETARY-TREASURER Michael LaRoque  
DISTRICT I Henry Fox DISTRICT II Eugene Sommers DISTRICT III Cheryl "Annie" Jackson

Michael Fairbanks  
Chairman, White Earth Band of Minnesota Chippewa Tribe  
Jamie Konopacky  
Environmental Counsel  
White Earth Band of Minnesota Chippewa Tribe  
35500 Eagle View Road  
Ogema, MN 56569  
Cell: 608-630-0166  
Jamie.konopacky@whiteearth-nsn.gov

April 26, 2023

Becker County Planning Commission

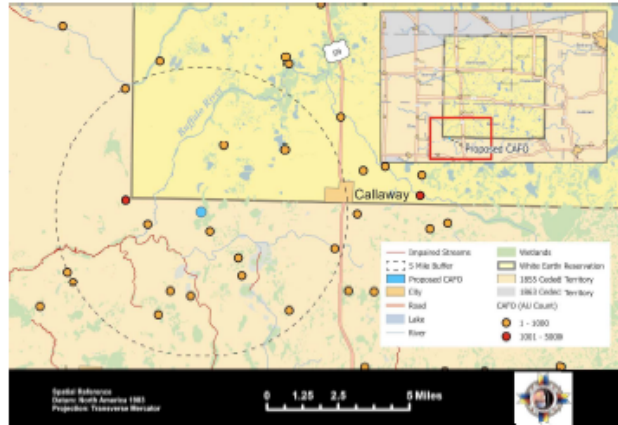
VIA EMAIL ONLY

Re: Conditional Use Permit Application/ Zurn Feedlot Proposal on Land Adjacent to the White Earth Reservation in the 1855 Treaty Territory

Dear Planning Commissioners,

I am writing on behalf of the White Earth Band of Minnesota Chippewa Tribe ("Band") to formally object to the conditional use permit ("CUP") proposed to be issued to William L. and Karolyn K. Zurn for a feedlot to be constructed at 270<sup>th</sup> Street Audubon, MN 56511 (Tax ID number: 14.0022.000). The Becker County Planning Commission meeting for April 26, 2023, to be held at 6pm, lists issuance of the CUP as item 1 on the agenda. Accordingly, it is the Band's request that this letter be included and considered as part of the meeting record pertaining to agenda item 1, issuance of the Zurn CUP.

The Commission's public notice requests comment on the suitability of the location and adequacy of the project. It is the Band's position that the proposed location for the Zurn feedlot is wholly unsuitable, and there is insufficient project information at this time to process a permit application. The Band possesses federally protected hunting, fishing and gathering rights both on the White Earth Reservation as well as within the 1855 Treaty Territory. U.S. CONST. art. 6, cl. 2; *U.S. v. Winans*, 198 U.S. 371 (1905); *Menominee Tribe v. U.S.*, 391 U.S. 404, 406, 413 (1968); *Leech Lake Band of Chippewa Indians v. Herbst*, 334 F.Supp. 1001 (1971), and without considerably more information and mandatory safeguards, the proposed feedlot, individually and cumulatively, threatens unlawful, imminent and permanent human health and environmental harm, amounting to violations of federally protected treaty rights, both on the White Earth Reservation (located less than .5 miles away from the proposed facility) and within the 1855 Treaty Territory. See map below.



As evidenced by the White Earth Resolution and Moratorium Ordinance No. 057-23-006A, passed on December 1, 2022, the Band does not approve of Concentrated Animal Feeding Operation (“CAFO”) or Animal Feedlot Operation Environmental Hazard (“AFO Environmental Hazard”) land uses without considerable safeguards to protect against well-known and documented harms associated with these operations including nitrate ground and surface water contamination, unsustainable ground and surface water drawdown and depletion, excessively high phosphorus levels in soil and surface water, E.coli surface water contamination, surface water hypoxia and surface water algal blooms.

The CUP application fails to include the most basic information necessary to evaluate the potentially significant and permanent human and environmental health threats and treaty rights violations posed by the proposed Zum feedlot. The application, for example, fails to identify the number of animals to be located at the proposed Zum feedlot facility, annual manure production, field locations/ timing of manure application, nutrient management plans, annual water use/sources, existing adjacent feedlots/ cumulative impacts and existing surface waterbody impairments within a five-mile radius (E.coli, turbidity, fish and invertebrates). Without this basic information, it is impossible for any CUP issued by Becker County to include necessary safeguards to protect against significant, permanent and illegal harms to White Earth Band members, natural resources and federally protected treaty rights. Accordingly, CUP issuance cannot take place at this time, and in the event of premature permit issuance, the Band is prepared to take legal action, as necessary, to ensure protection of its federally protected treaty rights.

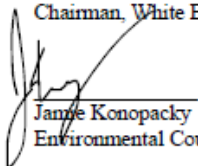
Miigwech, thank you, for the opportunity to submit this comment. The Band welcomes additional information and communication from Becker County and will continue with its own evaluation of the proposed Zum feedlot operation.

Sincerely,

Michael A Fairbanks

Michael Fairbanks

Chairman, White Earth Band of the Minnesota Chippewa Tribe

  
Jamie Konopacky

Environmental Counsel, White Earth Band of Minnesota Chippewa Tribe

P.O. Box 418 | White Earth, Minnesota 56591 | Tel. (218) 983-3285 | Fax (218) 983-3641

Signature:   
Michael Fairbanks (Apr 26, 2023 13:15 EDT)

Email: michael.fairbanks@whiteearth-nsn.gov

**TESTIMONY OF WILLIS MATTISON IN REGARD TO THE  
WILLIAM AND KAROLYN ZERN CONDITIONAL USE PERMIT APPLICATION  
TO CONSTRUCT AND OPERATE A SWINE FEEDLOT IN BECKER COUNTY**

At a Public Hearing Called for This Purpose on  
April 26, 2023

by

Willis Mattison, Professional Ecologist, Retired MPCA Regional Director and  
Water Quality Specialist

To: Members of the Becker County Planning Commission, the Planning and  
Zoning Department staff and the Becker County Board of Commissioners.

This testimony is presented on my own behalf. The video recorded eye-witness testimony submitted to the Commission by email over my signature on April 20<sup>th</sup> was on behalf of the Izaak Walton League's Prairie Woods Chapter. It is requested that the video recorded testimony be acknowledged as duly received and entered into the record of this proceeding. Notwithstanding any advice to the contrary, Commission members are admonished to take full and complete notice of the content of this video and consider its entire content in its deliberations in this matter as the Commission does for all other oral or written testimony.

I appear before you today to urge the Commission recommend the Becker County Board either deny the Zurn Conditional Use Permit application or table it until the further study offered by the County's Comprehensive planning process is complete. I make this request on the following grounds.

Conditional Use Permits (CUPs) are by definition a special exception to zoning rules that can allow a land use that would otherwise be prohibited. But CUPs can only be granted if the applicant materially demonstrates the project will have special design or operational features that eliminate or satisfactorily reduce the associated risks to the general human health and welfare and to the natural resources on which the county's citizens depend. Risks associated with industrial size hog feedlots are considerable and are not easily, if at all ameliorated. Those risks will be discussed later in this testimony.

Becker County's ordinance requires a CUP applicant to meet all five criteria listed in the ordinance and these criteria are itemized in the application form. The ordinance is clearly intended to minimize or eliminate risks to human welfare and the environment that otherwise would not be allowed. In this case, the applicants offer only their good intention to meet these criteria and eliminate the risks. Expressions of intentions or promises made in that regard are not the reliable, enforceable evidence required by the ordinance. On that basis alone the application must either be denied or returned to the applicant for appropriate completion of the form.

More importantly, the applicant must be informed, if this has not already been done, that the site they have chosen for this facility cannot be permitted under state feedlot site restriction rules that prohibit new feedlots within shoreland. Shoreland is defined in Minnesota Statutes and rules as that area within 1000 feet of the ordinary high water mark of any lake. The proposed site is within 1000 feet of Rassom Lake therefore the permit cannot be legally granted.<sup>1</sup>

It is also disconcerting that Planning Commission members and other county committees may have been errantly advised that state MPCA rules regarding feedlots (small and large) are sufficient to address land use zoning conflicts. And that this should allay any and all Commissioner's concerns for any nuisance conditions, air, water or land pollution or for any adverse impacts on fish and wildlife because they will be addressed by other levels of government. Let me assure you that as a 28 year career employee of the MPCA the state and federal feedlot rules are neither sufficiently stringent nor rigorously enforced to provide the necessary protections.

Furthermore, County Planning staff has advised county officials and members of the public that no pollution or land use conflict issues associated with large CAFOs have ever been brought to their attention. Therefore, based on this information gap, planning staff have not recommended any denials or even a pause in permitting these large feedlots. Nor have they suggested any further examination of or special conditions be imposed on the proposed Zurn facility to ensure these problems would not develop.

The Izaak Walton League Chapter members and others have, on several occasions offered a trove of reference material, research papers, personal experience testimonials and other volunteer services they have available to help document these CAFO issues. Clearly we all have much we can learn from

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<sup>1</sup> The proposed site appears to be well within shoreland of Rassom Lake, classified as Natural Environment Lake by Becker County Shoreland Ordinance. While residential uses and other structures may be located 200 feet from Natural Environment Lakes feedlots such as is proposed are not allowed within 1000 feet by MPCA Rules.

MPCA Rule 7020.2005 LOCATION RESTRICTIONS AND EXPANSION LIMITATIONS Subpart 1 clearly states that: "...a new animal feedlot or a manure storage area must not be constructed within shoreland..."

MPCA Administrative Rule 7020.0300 Subpart 21 uses the definition for shoreland based on Minnesota Statute Section 103F.205 Subdivision 4.

"Shoreland", as defined in Minnesota Statutes is "land within 1,000 feet from the normal high water mark of a lake, pond, or flowage"

In specific regard to County Shoreland Zoning ordinances, shoreland, is also defined by Minnesota MDNR Administrative Rule 6120.2500 as: "...land located within 1,000 feet from the ordinary high water level of a lake, pond, or flowage;..."

others who have experienced CAFOs moving or proposing to move into their counties and townships.

Beyond the League's video testimonials mentioned above I personally want to offer to help fill this CAFO information gap. The Ikes Chapter and others have amassed a reference library of relevant materials that the Commission could use to study and better understand CAFO issues. This hearing and my testimony will be far too brief to itemize all these materials. But I will offer into the record internet links for two reports and two news articles for Commissioner and staff review before acting on the Zurn or any other large CAFO permits. (Internet links are offered in lieu of printing and duplication costs and provide easy access to this information for all who may be interested.)

The first is the result of the most elementary of on-line information searches one can do to better understand and issue such as CAFOs and that of course is Wikipedia at: [https://en.wikipedia.org/wiki/Concentrated\\_animal\\_feeding\\_operation](https://en.wikipedia.org/wiki/Concentrated_animal_feeding_operation). Here a wide array of issues on all sides of the CAFO debate is developed in considerable detail citing many credible references. These include issues of water quality, air quality, economic impacts, negative production externalities, public health concerns, impacts on minority communities, animal health and welfare concerns and a detailed discussion of the regulatory history of CAFOs, including deficiencies, of the Clean Water Act, state and local regulations. This is all information directly relevant to the Becker County CUP Ordinance criteria.

The second is a 2008 report by the Union of Concerned Scientists "*CAFOs Uncovered—The Untold Costs of Confined Animal Feeding Operations*" that reveals that CAFO problems have been well known for over a decade. Some of the statistics in this report are now outdated but the threats and problems here in 2023 have only gotten more dire as the industry migrates into water rich regions such as ours. See the report at: <https://www.ucsusa.org/resources/confined-animal-feeding-operations-uncovered>.

And just this week the Minneapolis Tribune reported that citizen groups and several S.E. Minnesota counties have filed a law suit (or petition) demanding the Federal Environmental Protection Agency step in to assure more effective protection and remedies for polluted wells and fish kills associated with more intensive agriculture and more specifically with large feedlots. (A copy of that article is attached).



Neighboring states like Iowa and Wisconsin<sup>2</sup> and even Southern and central Minnesota have become nearly saturated with CAFOs and the industry is migrating north into the Minnesota lakes country. This migration is not to expand the industry but to escape disease ridden counties and in search of cleaner more plentiful water supplies. But some counties and townships have found ways to protect their family farms, rural community economies, their water supplies, clean lakes and streams.

These counties and townships have discovered that State and Federal rules do not and were never intended to supplant local zoning ordinances to address nuisance odors, access or transport road adequacy, traffic congestion, nuisance odors, noise, lighting, and interference with neighbor's use of their property, or property value declines. Protecting Becker County citizens from these land use impacts associated with CAFOs is a zoning problem squarely in the sphere of responsibility for this Commission.

My fellow League members and others have collected model and actual CAFO ordinances that this Commission can review to see what issues have been clearly identified as falling within the local land use zoning purview. You can learn how effective these ordinances have been at addressing these same issues where they have encountered elsewhere. You are fortunate that this Commission will not have to reinvent the wheel here.

Permitting just one of these extraordinarily large or even a pioneering transitionally large CAFOs here in Becker may well be a trip-wire event triggering similar spin-offs or support ventures that have hidden but undesirable costs to Becker County citizens in the long-term. The Union of Concerned Scientists paper mentioned above itemizes those hidden costs. The spin-off spokes of these industrial live stock factories will only magnify the problems introduced by the first such operation.

Be aware that the business model for industrial hog production is to start with a farrowing operation, then expand to several weaned pig nurseries and then to more hog finishing operations nearby—something resembling the hub of a wheel that sprouts spokes fanning out in all directions.

While the proposal before you appears dead on arrival it will not be the end of this industry's attempt to intrude on Becker and our neighboring water rich counties. The industry purposely seeks out counties that do not have effective

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<sup>2</sup> *Massive factory farms called CAFOs are on the rise as small family operations fade. Here is why they're controversial in Wisconsin – Laura Schulte – Milwaukee Journal Sentinel May 31, 2022 at: <https://www.jsonline.com/story/news/local/wisconsin/2022/05/27/cafos-rise-wisconsin-what-know-factory-farms/9704281002/>*



CAFO related ordinances and plenty of clean water. Now is the time for Becker County to utilize the best research and public engagement tool the county has to properly address this threat. That tool is a thorough, proactive, well-informed comprehensive land use planning process, the very same process County Board has just embarked upon.

Denying or delaying action on the application now before this Commission would allow this planning process to thoughtfully gather the information the County needs to make the best, well-informed plans and decisions about if, where and how large any of livestock operations should be permitted in Becker County under conditional use or conventional farm use provisions.

Individual Townships should not be burdened with this responsibility when the County is poised to do this on the entire county's behalf.

In summary, the Commission is urged to deny or delay action on this permit pending completion of Becker County's Comprehensive Plan that is expressly intended to study new land use challenges such as CAFOs and make adjustments to applicable ordinances found necessary to protect the generally health and welfare and the natural resources of the county.

Respectfully Submitted,

Willis Mattison  
42516 State Highway 34  
Osage, Minnesota 56570

Attachments

1. Minneapolis Tribune April 24<sup>th</sup> 2023 Article: *"A petition to EPA describes an 'imminent and substantial endangerment' to the health of southeast Minnesota residents.* By Jennifer Bjorhus
2. Milwaukee Journal Sentinel May 31, 2022 Article: *"Massive factory farms called CAFOs are on the rise as small family operations fade. Here is why they're controversial in Wisconsin"* By Laura Schulte

## Massive factory farms called CAFOs are on the rise as small family operations fade. Here is why they're controversial in Wisconsin

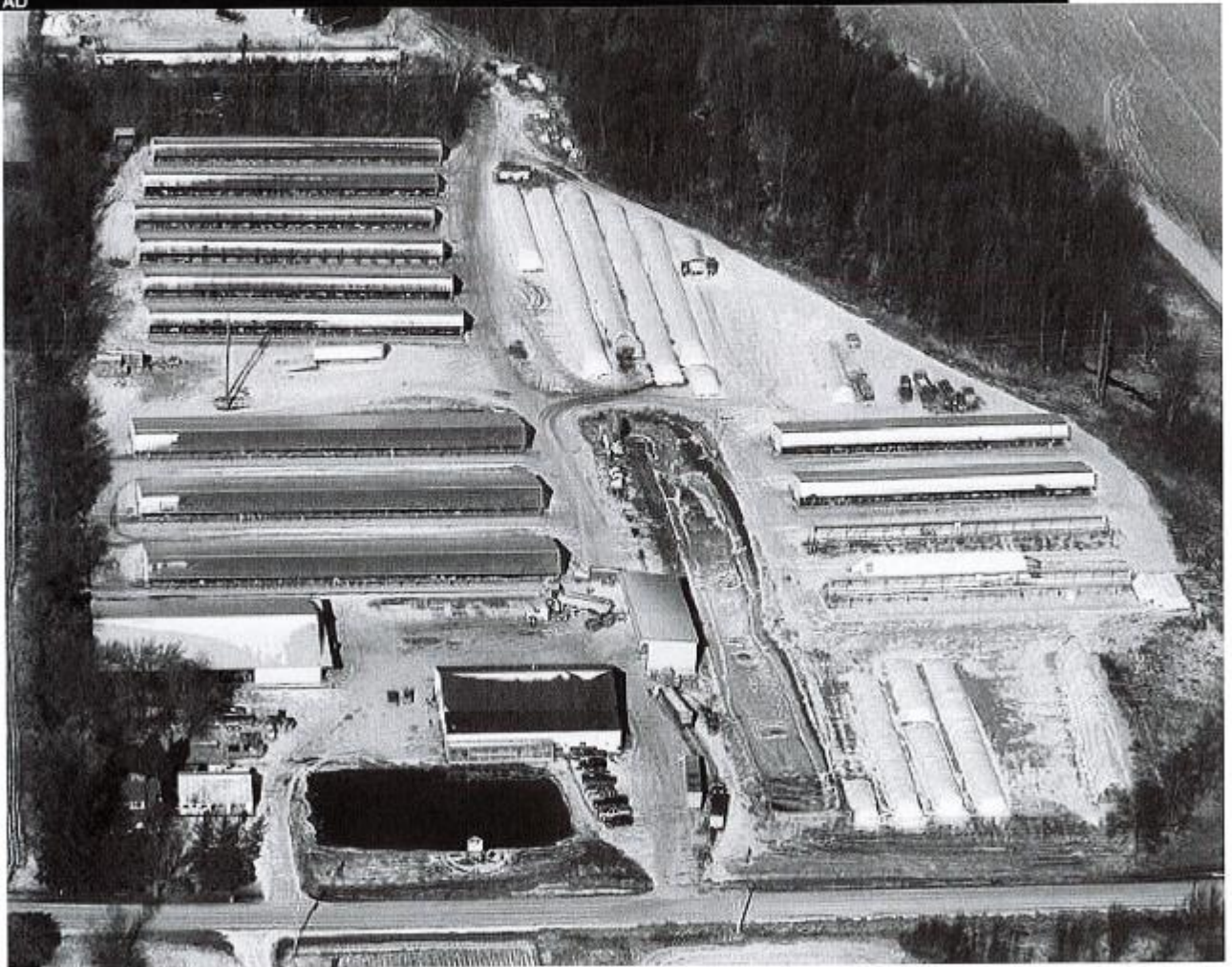


Laura Schulte  
Milwaukee Journal Sentinel

0:00

1:16

AD



Factory farms are a hot-button topic in Wisconsin, a state that was once home to thousands of small family farms.

The large-scale animal operations, which can produce milk, beef, chicken, turkeys and pigs, are popping up all over the state, worrying some activists and nearby residents. They say the farms can drive down home values, pollute water and cause harm to the land. Supporters argue the farms are the key to feeding the world.

So what are CAFOs? Here's what you should know.

## **What are CAFOs?**

A concentrated animal feeding operation is defined in Wisconsin as an operation housing 1,000 or more animals, according to the Department of Natural Resources. Smaller-scale animal feeding operations can also receive CAFO designations if they have pollutant discharges to navigable waters or contaminates a well.

CAFOs in Wisconsin must apply for and receive a wastewater permit, under the Wisconsin Pollutant Discharge Elimination System. The permits ensure farms use proper planning, nutrient management and construction to protect waters of the state. However, the permits only apply to water quality protection — meaning the state does not regulate air, odor, traffic, lighting, land use or other controversial topics surrounding the large-scale farms, the DNR website said.

## **How many CAFOS are there in Wisconsin?**

Wisconsin has 327 CAFOs, according to DNR data. Of those, the majority are dairy, but the state also has hog, beef, chicken and turkey CAFOs.

## **Where are they?**

CAFOs are spread across the state, but the largest concentrations of farms are in Manitowoc County, which is home to 25 CAFOs, Brown County, home to 23, Kewaunee County with 17 and Fond du Lac County with 16, according to DNR data.

## **Why are they controversial?**





CAFOs tend to be hotly debated for a number of reasons.

One of the largest is the potential for water contamination — for both surface water and groundwater. Manure produced at CAFOs is typically mixed with water, creating a watery substance that is stored at the farm until the operation is able to spread the mix on nearby farm fields.

That practice, called land-spreading, can sometimes result in the manure substance running into surface waters, causing pollution, or it can soak into the ground and into the water table below, polluting groundwater.

While a number of the components of manure — such as phosphorus ammonia — are concerning, one of the largest issues for CAFOs is nitrate. Studies suggest that drinking water with elevated levels of nitrate over a sustained period can cause birth defects, thyroid problems and colon cancer.

Pregnant women and babies are the most vulnerable. The contaminant has been associated with a condition called blue baby syndrome, which reduces the amount of oxygen in a baby's blood.

Other concerns surrounding CAFOs are the odors that come from large numbers of animals and their manure, lighting from barns, damage to roads by trucks entering and leaving the farms and the treatment of animals housed at the operations.

**More:** Industrial dairy farming is taking over in Wisconsin, crowding out family operations and raising environmental concerns

## **Why are CAFOs needed?**

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While controversy tends to swirl around factory farms, the farmers who run them argue for their importance.

Large-scale dairy farms produce about 58% of the nation's milk supply and are cheaper to run than smaller-scale farms.

And other large-scale farms producing beef, turkey, pork and chicken are able to provide more affordable meat options to a larger number of people.

Large-scale farming can also provide a legacy for some farming families.

One farmer, who owns a hog CAFO in Crawford County, said large-scale farming is one way to ensure there is something to pass on in the future.

"I want to have something so that if one of my kids wants to take over the farm, they can," said Howard "AV" Roth, owner of Roth Feeder ig.

### What about that CAFO in Kewaunee County?



One of the most controversial CAFOs in Wisconsin is Kinnard Farms, located in Kewaunee County. The farm raises and milks dairy cows.

**More:** [Kewaunee county factory farm sues DNR over new permit that limits animals, orders water monitoring](#)

Residents in the area around the farm have faced issues with [nitrates in their drinking water](#), as well as issues with odors coming from the farm. The community for years has asked the DNR to more closely



regulate the farm and cap the number of animals allowed on the property, as well as require groundwater monitoring near the field on which the farm spreads manure.

Residents were handed a victory in March when the DNR capped the number of animals at the farm's current number — 8,000 — and said the farm must monitor water at two locations at least. The newly issued permit was set to expire in January 2023.

But the farm is fighting back against those terms with a lawsuit, saying that monitoring wells is too expensive and the inability to grow its herd will hurt business.

## **Are there any other hotly debated CAFOs?**

A newly permitted CAFO in Crawford County has also raised concerns for advocates and nearby residents.

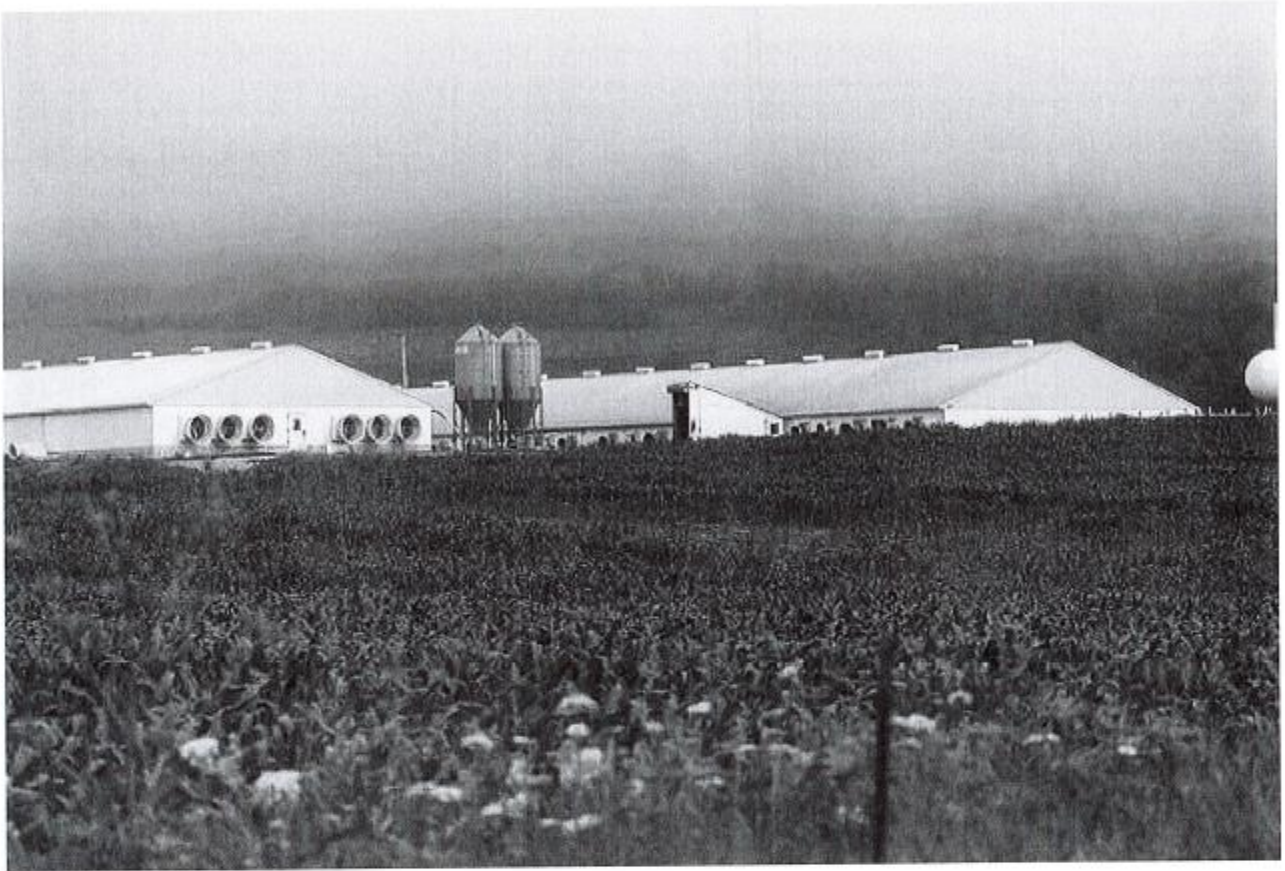
Roth Feeder II, a hog CAFO, will breed and sell piglets for other farms in the Midwest. It's the second factory farm owned by Roth, who is the former president of the National Pork Producers Council.

The farm will employ 14 people full time, documents say, and will pay out about \$900,000 a year in salaries, in addition to more paid out to four part-time workers.

**More:** DNR permits second hog factory farm in Crawford County despite local worries over water quality in Wisconsin's Driftless Area

People in the community surrounding the proposed CAFO asked the DNR to more closely examine the area where the operation would be built, due to the unusual geology of the Driftless Area and a short distance to groundwater. The residents said they worried about nitrate and other contaminants, which have already been found in water near Roth's other facility.

The DNR issued a permit without further studying the land, much to the dismay of those residents. They now hope to challenge the DNR's decision, potentially putting the construction of the new farm on hold.



### **What about smaller farms?**

Activists against CAFOs have argued in recent years that the large farms may be what is fueling the decline of smaller family-owned farms in Wisconsin. Nearly 3,000 farms have gone out of business in recent years because of low pay and high costs of running the operation.

Before the rise of large commercial farms, there were more than 10,000 farms in Wisconsin, most of them small, family-owned operations passed down from generation to generation.

But recently, drops in the price of milk and poor harvests leading to a lack of feed for cattle have led those small operations to shutter, while large-scale farming has grown.

**More:** 'This isn't the way I wanted it to end': Dairy farm shuts down after 148 years

### **Is the state doing anything about pollution stemming from CAFOs?**

Nitrate is currently not regulated in Wisconsin, with rules failing to move forward last year after the DNR fell behind on the drawn-out process to create administrative rules for the contaminant.

The agency was also granted the ability to require groundwater monitoring for CAFOs by a 2021 state Supreme Court decision, which activists hope will keep water cleaner by notifying farmers and the DNR of issues before they reach the private wells of citizens.

**More:** Email reveals DNR has abandoned groundwater rulemaking for nitrates, citing strict timeline and difficult process set by Legislature

## Is there any other use for manure from CAFOs besides fertilizer?

Manure from dairy CAFOs could find a new purpose: energy.

Some of the nation's largest dairies are installing anaerobic methane digesters that convert manure gas into fuel to run vehicles like buses and trucks. The digesters can be a profitable side business for dairy owners and an additional way to get rid of manure where there is too much to be applied to the soil.

Wisconsin has 318 methane digesters, including around 50 on dairy farms, according to the state Public Service Commission. Most are at wastewater treatment plants, landfills, food manufacturers and industrial sites.

Wisconsin has more methane digesters than nearly any other state.

*Laura Schulte can be reached at [leschulte@jrn.com](mailto:leschulte@jrn.com) and on Twitter at [@SchulteLaura](https://twitter.com/SchulteLaura).*

## About this feature

This is a weekly feature for online and Sunday print readers delving into an issue in the news and explaining the actions of policymakers. Email suggestions for future topics to [jsmetro@jrn.com](mailto:jsmetro@jrn.com).



# Groups seek fed emergency action to protect drinking water in Minnesota bluff country

A petition to EPA describes an "imminent and substantial endangerment" to the health of southeast Minnesota residents.

By Jennifer Bjorhus Star Tribune

APRIL 24, 2023 — 5:43PM



BRIAN PETERSON, STAR TRIBUNE

The high level of nitrate in its drinking water is forcing Utica, a small town in Winona County, to drill a much deeper new well. It's a \$2 million project, most of which will be paid for by the federal government. The nitrate problem in southeast Minnesota has gotten so bad, environmental groups say, that they are formally requesting emergency action by the U.S. EPA under the Safe Drinking Water Act. Brian Peterson

brian.peterson@startribune.com

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GIFT  
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10

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A group of environmental organizations say nitrate pollution in drinking water has reached crisis proportions in southeast Minnesota, and it's time for the feds to step in.

They are taking the unprecedented step in Minnesota of formally requesting the Environmental Protection Agency to take emergency action under the federal Safe Drinking Water Act. State and local regulators have failed to lower dangerous nitrate levels in groundwater with voluntary measures that aim to curb pollution from farms, they say.

Southeast Minnesota's groundwater is particularly vulnerable to nitrate pollution because of the many sinkholes and fractures in the porous limestone underlying the region.

"This contamination poses an imminent and substantial threat to human health, and the problem is not getting any better," the groups said in their request submitted Monday.

It's not clear whether the EPA will act on the 98-page request. But the submission itself signals the depth of frustration in Minnesota's karst country with pollution largely traced to farm fertilizers and manure.

Nitrate originating in large-scale agriculture has been one of the state's most aggravating environmental problems. The invisible and odorless acute contaminant has polluted lakes and rivers, aquifers and drinking water wells and continues to force communities to pay for drilling new wells and installing new treatment. In response, the state adopted the Groundwater Protection Rule in 2019, its most comprehensive action to prevent nitrate pollution, though farms continue to expand.



BRIAN PETERSON, STAR TRIBUNE

Utica City Councilman Robbie Floerke, pictured here next to his town's main well house, said the town doesn't want to spend money to drill a new well but has no choice given the nitrate contamination.

More

#### ADVERTISEMENT

The emergency request was submitted by 11 local and national organizations, led by the Minnesota Center for Environmental Advocacy, on behalf of residents in eight southeast Minnesota counties. About 80,000 residents in those counties rely on private wells for their drinking water, and about 300,000 people are hooked up to public water systems, according to the request.

Rural residents with private wells have been largely left out of the state's major nitrate control efforts, the groups said.

The most well-known effect of drinking water with high nitrate is the potentially fatal condition called blue baby syndrome, in which infants are starved of oxygen. Federal regulators imposed a limit at 10 milligrams of nitrate per liter of water several decades ago to guard against that. Newer research links drinking water with lower levels of nitrate to other health effects: colorectal cancer, thyroid disease and neural tube defects.

Specifically, the groups asked the EPA to investigate the region to pinpoint the parties responsible for contamination and figure out why the state's permitting regime and best management practices haven't succeeded in protecting the area's groundwater.

Just identifying sources "would be a huge step forward," said Carly Griffith, water program director at the Minnesota Center for Environmental Advocacy.

It also asked the EPA to order polluters to provide free alternative sources of drinking water for people whose wells are contaminated, and prohibit construction or expansion of concentrated animal feeding operations unless nitrate concentrations are lowered.

Of about 32,000 private wells tested for nitrate in Minnesota through the Township Testing Program, some 9% exceeded the nitrate limit of 10 milligrams. Most of those are in southeast Minnesota, said Leigh Currie, the Center's Director of Strategic Litigation.

The EPA has received several similar requests in the past decade to invoke its emergency powers under Section 1431 of the Safe Drinking Water Act. The federal regulator outlined the broad scope of its authority in guidance issued in 2018, following the drinking water disaster in Flint, Michigan.

"Actual reports of human illness are not required to establish the presence of a 'substantial' endangerment to water consumers," the guidance said.

The Minnesota Pollution Control Agency issued a joint statement with the state departments of health and agriculture, saying not all nitrate comes from farming and pointed to its groundwater protection rule and a nitrogen fertilizer management plan as evidence that they're working on the problem. They acknowledged that "more work is required" by everyone.

Warren Formo, executive director of the Minnesota Agricultural Water Resource Center, whose members include about two-dozen major agriculture groups, said it wants to find a path for both farm prosperity and safe drinking water, and the farm community is "actively engaged" with the groundwater problem in karst country.

One community mentioned in the request is Utica, a city of about 250 in Winona County surrounded by dairy farms and rolling fields. It was forced 20 years ago to relegate one of its wells to emergency backup status because of nitrate contamination, according to the submission. But nitrate levels kept creeping up, and reached 8.6 milligrams recently.

Utica decided its only real option was to drill a new well. The town is increasing water rates to help pay for the upcoming \$2 million project, although a loan and grant package from the U.S. Department of Agriculture's Rural Development Program will cover most of the cost, said Utica City Council Member Robbie Floerke.



Floerke is a police officer by day. He bluntly summed up Utica's nitrate dilemma.

"It stinks."

Utica is not a party to the request. Floerke wasn't aware of it until informed by a reporter.

"If it's funding to help these smaller towns, I'm all for it," Floerke said, standing by the main water well next to the railroad tracks that cut through Utica. "I'm surprised it hasn't come up sooner given how big a problem it is down here."

Nowhere has the problem been more apparent than Winona County. The county has been enmeshed in a legal battle with local mega-dairy Daley Farm of Lewiston, one town over from Utica. The family has sought to expand its operations to nearly 6,000 animal units, or about 4,400 cows, which is significantly beyond the county's limit of 1,500 animal units per feedlot. Records show the Daley family also owns hundreds of acres of land in Utica's drinking water supply management area, which covers about 6,600 acres south of town. It's not just groundwater. Winona County also has suffered four fish kills in local rivers in the last decade. Most recently, manure and pesticide runoff killed at least 2,500 fish in Rush Creek, mostly brown trout, near Lewiston.

Taking a break from washing her car in her driveway in Utica, Tanya Ferguson said that she hauls her family's drinking water in stainless steel drums from her parent's organic farm about 5 miles away. Ferguson, who works as a nurse at the Mayo Clinic in Rochester, stores them in the garage and keeps pitchers in the refrigerator.

"It's just how it is," she said.

Ferguson and other residents were reluctant to blame farm practices for Utica's predicament. Agriculture is an economic driver of the area. What's happening in the fields south of Utica is probably affecting the town's water, Floerke said, but he doesn't want to "step on their way of life."

"It's a fine line," he said.

Floerke said he has four children and everyone at his house drinks the tap water. He said he trusts state regulators on the 10 milligram per liter safety limit and will take his chances.

"I'm a police officer in the neighboring town," he said. "You never know what's going to happen the next day."

Utica's new well will go twice as deep to a different aquifer. Construction likely won't start until next year.

Walking the few blocks home from the main well, past the pickups parked shoulder to shoulder outside Brewskie's Bar & Grill, Floerke talked about how he enjoys living in a quiet town where everyone is familiar. He wants Utica to survive, he said. He doesn't want all the new costs to break the town and drive people away so it becomes a ghost town.

"That's my biggest fear," he said. "I know there's people having a hard time paying their water bills as it is."

**Jennifer Bjorhus** is a reporter covering the environment for the Star Tribune.  
jennifer.bjorhus@startribune.com 612-673-4683 [jbjorhus](mailto:jbjorhus)

Nicole,

William and Karolyn Zurn's application for a Conditional Use Permit ("CUP") to operate a Concentrated Animal Feeding Operation ("CAFO") on land located in Section 5 of Hamden Township.

There are so many reasons to deny this request that I can't get into all of them over this short email.

The Landrum Lake Gun Club will be presenting our arguments at the meeting. It is way too soon to approve something we (Becker county) knows so little about. This will have a drastic impact on Becker County for years to come. This will also negatively impact our use and enjoyment of our property at Landrum Lake Gun Club.

Thanks,  
TJ Buboltz  
701-238-4354  
[tjbuboltz@outlook.com](mailto:tjbuboltz@outlook.com)  
HomeSmart Adventure Realty - Realtor

412 As there was no one else to speak for or against the application, testimony was closed.  
413  
414 Skalin asked how close Eric Zurn lives to the site.  
415  
416 Zurn stated he is about one and a half (1.5) miles as the crow flies.  
417  
418 Lindow asked how many members visited the site.  
419  
420 There were eight (8) members total who raised their hands.  
421  
422 Bowers stated that he drove out the day of the hearing but didn't drive in the driveway.  
423  
424 Lindow asked about the Northwest corner of the red box, it looked like a couple drainage areas  
425 and what is it.  
426  
427 Zurn spoke and said it's a dike that was set up to prevent erosion.  
428  
429 Lindow asked how he can put buildings out there.  
430  
431 Zurn stated that some of the drainage will be modified because it won't be crop land anymore.  
432 He will have to do some leveling for the site as you would with any building.  
433  
434 Lindow asked if it would require a permit from the DNR.  
435  
436 Zurn said it would require a permit from the Buffalo River Watershed.  
437  
438 Skalin said it will require a Storm Water Pollution Prevention Plan (SWPPP) from the  
439 Watershed.  
440  
441 Lindow commented that it would have been helpful to see a site plan in with his application.  
442  
443 Zurn asked Vareberg if that was required.  
444  
445 Vareberg stated what the ordinance says is that this Planning Commission prescribes what they  
446 desire. Prior to this meeting Vareberg said he was given no direction to prescribe anything from  
447 him besides a Conditional Use Permit application.  
448  
449 Jepson asked about Chapter 8: Section 11, letter B of the Zoning ordinance where it states:  
450 **Application.** An application for a conditional use permit shall be filed with the Zoning  
451 Administrator on a form prescribed by the Board of County Commissioners. The application  
452 shall be accompanied by such plans, elevations and site plans as prescribed by the County  
453 Planning Commission.  
454 And asked "as prescribed" is it that they didn't ask for it.  
455  
456 Vareberg said there's nothing prescribed prior to this for feedlots.  
457

458 Jepson asked then if it's not required, because it's not required in our Zoning ordinance.  
459  
460 Vareberg said that is correct.  
461  
462 Lindow said you would think with something like a feedlot, there would be requirements in the  
463 ordinance.  
464  
465 Vareberg said it has been vetted at the County Board and they have decided to tackle it through  
466 the comprehensive plan update in the next year.  
467  
468 Skalin said he can't think of a better location for this application.  
469  
470 Jepson commented that she lives close to Briard's farm, and she doesn't smell anything from  
471 there. She also asked how close to the gun club the feedlot would be located.  
472  
473 Vareberg said he didn't think it would be any closer than the existing building is now.  
474  
475 Lindow mentioned again that without knowing where the buildings are going to be, its not  
476 known if it will change where the hunt club is allowed to shoot from and that could cause  
477 problems for the club.  
478  
479 Vareberg explained that four-hundred ninety-nine (499) animal units would be allowed through  
480 our ordinance, as would construction of a house and those same five hundred (500) foot rules  
481 would be in place.  
482  
483 Lindow said if there's any buildings along the east line, the gun club cannot shoot within five  
484 hundred (500) feet.  
485  
486 Vareberg explained what is permissible per the Zoning ordinance and stated that this feedlot  
487 would be further away.  
488  
489 Hall said they've heard all the testimony. As long as they are following all the regulations; one  
490 thousand (1000) feet and three hundred (300) feet, what the Planning Commission's is  
491 challenged with doing is making the decision of whether or not it fits the area. He said he  
492 believes it will stay zoned agricultural, and he doesn't see a reason to hold them back. They need  
493 to go on and work with the Buffalo River Watershed and the MPCA.  
494  
495 Disse commented that the County Board makes the final decision.  
496  
497 Mortiz said he called and talked to the Buffalo River Watershed, and they told him they adopted  
498 County rules, so if the County approves this application, they will abide by that.  
499  
500 Skalin commented that the three hundred (300) feet and one thousand (1000) feet can be  
501 stipulated in the motion.  
502

On behalf of himself and present legal counsel, Vareberg made a request to Blomseth that whatever the motion may be, that he would direct staff and counsel to draft findings that would be consistent with that motion. He also asked that they set a special meeting to be held at 7:30 am on May 16<sup>th</sup>, in the 3<sup>rd</sup> floor meeting room of the courthouse to consider those findings drafted by staff and counsel.

**MOTION: Lindow motioned to deny the application; Motion died due to a lack of second.**

**MOTION: Skalin motioned to approve the application with the stipulation that any structures be at least three hundred (300) feet from the tributary and one thousand (1000) feet from the lake, and that the Planning Commission would meet at 7:30 am on May 16<sup>th</sup> in the 3<sup>rd</sup> floor meeting room of the courthouse to consider findings consistent with the motion.; Hall second.**

Seaberg asked Moritz's opinion on this request.

Moritz said that if proper care is given, the risk to the water is significantly less, but there is always a risk with anything.

**Roll Call; Aho, Hall, Ailie, Skalin, Disse, Moritz, and Seaberg in favor. Lindow and Bowers opposed. Blomseth and Mattson abstained. Motion carried.**

**Other Business:**

**I) Tentative Date for Next Informational Meeting: May 24<sup>th</sup>, 2023; 8:00 am; 3<sup>rd</sup> Floor Meeting Room in the Becker County Courthouse, Detroit Lakes, MN.**

**Since there was no further business to come before the Board, Seaberg made a motion to adjourn. Disse second. All in favor. Motion carried. The meeting adjourned at 8:00 pm.**

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**David Blomseth, Chairman**

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**Jeff Moritz, Secretary**

**ATTEST**

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**Kyle Vareberg, Zoning Administrator**