



**Individual NPDES Permit Application No. PAI-0321-11-013**  
**Applicant - Mr. Lewis Martin**  
**COMMENT/RESPONSE DOCUMENT**  
**February 7, 2014**

The Pennsylvania Department of Environmental Protection (DEP) is in receipt of an Individual National Pollutant Discharge Elimination System (NPDES) permit application No. PAI032111013, for the discharge of stormwater associated with construction activities submitted by Mr. Lewis Martin. Mr. Martin is proposing to disturb 8.24 acres for the purpose of constructing two poultry houses at his property located at 489 Big Spring Rd., in West Pennsboro Township, Cumberland County, Pennsylvania. The proposed facility is located within the Big Spring Creek watershed. Big Spring Creek is a special protection water of the Commonwealth and has an existing use of High-Quality Cold Water Fishes and Migratory Fishes under Title 25 of the PA Code, Chapter 93. The permit application's Erosion and Sediment Control Plan and Post-Construction Stormwater Management Plan provide proposed effluent limitations.

Mr. Martin's NPDES permit application was published as an application received and draft permit for comment in the December 24, 2011 edition of the *Pennsylvania Bulletin (PAB)*. The December 24, 2011 *PAB* notice provided a 30-day period for comment, ending on January 23, 2012. The DEP received numerous comments and requests for a public hearing on the application from the public. On March 6, 2012, DEP held a public hearing to receive oral and written testimony about the permit application from the public. An additional 15-day comment period was provided from the date of the public hearing through close of business on March 21, 2012. The comments received from 29 commentators during the public comment periods, as well as responses from the DEP, are included in this Comment/Response document.

Following each comment in this document is the commentator(s) number that denotes which commentator(s) made the same or generally similar comment about the permit application.

## LIST OF COMMENTATORS

1. Eugene P. Macri  
Aquatic and Environmental Scientist  
Waynesboro, PA 17268
2. Donald and Helen Long  
Mechanicsburg, PA 17055
3. Keith Clinton, President  
Big Spring Watershed Association (BSWA)  
Newville, PA 17241
4. Pennsylvania Fish and Boat Commission  
Bureau of Fisheries  
Bellefonte, PA 16823
5. Robert and Marilyn Miller  
Newville, PA 17241
6. Jeffrey Walder  
Newville, PA 17241
7. Mary Blakeslee  
Washington D.C. 20016  
  
Lazlo Bockh  
Newville, PA 17241
8. Jason E. Kelso, Esq.  
Saidis, Sullivan & Rogers  
Carlisle, PA 17013  
Representing Big Springs Concerned Citizens Group
9. Jeffery and Luann Cohick  
The Willows Farm  
Newville, PA 17241
10. Beverly Polk  
Newville, PA 17341
11. Christopher Rice, Esq.  
Martson Law Offices  
Carlisle, PA 17013  
Representing Jeff and Luann Cohick

12. Jason Kutulakis  
Abom & Kutulakis  
Carlisle, PA 17013  
Representing Ken Glotfelty, Big Spring Properties, and Big Spring Terrace
13. Justin Pittman, President; and Mike Danko  
Cumberland Valley Chapter Trout Unlimited  
Carlisle, PA 17013
14. Bill Hill, Wm. F. Hill & Associates  
Newville Borough Water and Sewer Authority  
Newville, PA 17241-1032
15. Jim Chestney
16. Len Lichvar  
Boswell, PA 155431
17. Eugene Giza  
Boiling Springs, PA 17007
18. Dr. Todd Hurd  
Biglerville, PA 17307
19. Christopher L. Farence  
Newville, PA 17241
20. Gil Freedman  
Conodoguinet Creek Watershed Association  
Mechanicsburg, PA 17050
21. Ken Garfelty  
Carlisle, PA 17015
22. Mervin Ruppert
23. Lee Kennedy  
Newville, PA 17241
24. Allen Williams
25. David Weaver  
Gettysburg, PA 17325
26. Sam Robinson  
Philadelphia, PA 19119

27. Robert Robinson  
Anna Burkhalter  
Lutheran Theological Seminary at Philadelphia  
Philadelphia, PA 19119
28. William Shook  
Novato, CA 94945
29. Kurt Weist  
Citizens for Pennsylvania's Future (PennFUTURE)  
Harrisburg, PA 17101-1113

## COMMENTS AND RESPONSES

- 1. Comment:** The construction and use of this facility threatens the biological and chemical integrity of Big Spring Creek, the karst aquifers, the wells of residents and the water supply of Newville. (1, 3, 4, 8, 13, 18, 20, 25, 26, 27)

**Response:** The Department of Environmental Protection (DEP) has determined that the applicant has demonstrated that the National Pollution Discharge Elimination System Permit for Stormwater Discharges Associated with Construction Activities (NPDES Permit) application complies with the requirements of 25 Pennsylvania (PA) Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality and existing and designated use of Big Spring Creek, including public water supplies.

- 2. Comment:** The chicken houses should not be placed so close to the water supply and main road. Many institutions and homes use this as their main water supply. (2)

**Response:** The applicant significantly revised the location of the proposed barns from the original set of plans, from approximately 120 feet from Big Spring Road to approximately 1,700 feet from Big Spring Road. DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality and existing and designated use of Big Spring Creek, including the public water supply use.

- 3. Comment:** Tractor trailer traffic on Big Spring Road is a major issue. (2)

**Response:** Traffic is not a consideration within the purview of DEP to consider as part of the NPDES Permit application review process.

- 4. Comment:** This project would be located across the road from stream improvement projects that have been done on Big Spring Creek. There is a concern that the operation of the facility may affect existing water quality of Big Spring Creek. The DEP should provide the same level of concern and protection to this project as it does to others in the watershed. (3, 4, 11, 13)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek. DEP consistently applies the same applicable regulatory standards to all NPDES Permit applications. DEP conducted the same level of review for this project as any other Individual NPDES Permit.

5. **Comment:** Large factory farms may not be consistent with the Pennsylvania Historic and Museum Commission (PHMC) designation of the “Big Spring Industrial and Agricultural Historic District.” (3, 7, 13)

**Response:** This is a concern that should be directed to the PHMC.

6. **Comment:** There is a concern about the impact of manure from 90,000 broilers on the Newville water supply, particularly in the event of an overflow from a retention pond. (3, 7, 18)

**Response:** The applicant is required under 25 PA Code, Chapter 91, Section 91.36 to develop and implement a manure management plan to store and land apply manure. The applicant has a manure management plan. The applicant has not proposed that the manure will be stored in a retention pond.

7. **Comment:** The DEP guidelines provide that “the complexities of a karst system demand a more rigorous scrutiny that other geological settings.” There is potential for ground water infiltrates from this farm to get into Big Spring through the stormwater system. (3, 5, 7, 8, 11, 13)

**Response:** The applicant engaged a licensed professional to examine the site characteristics and assessment of soil and geology, including appropriate infiltration and geotechnical studies as part of the permit application, and DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality and existing and designated use of Big Spring Creek.

8. **Comment:** This commentator is against anything that will compromise and/or cause the loss of the resources of the Big Spring Watershed: its potable water; its historic trout fishing and its birding sanctuary. (5)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

9. **Comment:** The commentator is also concerned about odors. (5)

**Response:** Odors are not a consideration within the purview of DEP to consider as part of the NPDES Permit application review process.

10. **Comment:** This commentator was concerned about nitrate and heavy metal concentrations affecting water quality in an area with elderly residents, pregnant women, nursing mothers and children (including methemoglobinemia (blue baby syndrome)). (6, 11, 18)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality existing and designated use of Big Spring Creek.

- 11. Comment:** Added nitrate load from this facility will exceed the allowed EPA limits for nitrate at the filter plant and require costly increases in treatment. (3, 6, 12, 13, 21)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek, including the public water supply use.

- 12. Comment:** This commentator indicates that the Fish Commission biologist believes that the poultry factory as proposed will significantly degrade the water quality of the stream and hazard the fish population downstream because dissolved oxygen levels are already a limiting factor. (6)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

- 13. Comment:** The significant draw down of the aquifer in a Karst geology area will cause significant increase in the nitrate level in water flowing into wells and consumed by nearby residents. (1, 9, 12, 18, 19)

**Response:** The water withdrawal will not affect the function of the erosion and sediment control (E&S) and post construction stormwater management (PCSM) best management practices (BMPs). The implementation of manure management practices at this facility is consistent with environmental and agronomic standards designed to utilize available nutrients and to prevent unsafe nitrate levels.

- 14. Comment:** The farm is across the street from the Big Spring Creek and seems to drain in that direction. (10)

**Response:** Yes, the proposed project site drains to Big Spring Creek.

- 15. Comment:** If the permit is approved, West Pennsboro will be setting a precedent. (10)

**Response:** Local land use decisions are the responsibility of the local municipality.

- 16. Comment:** Because the local municipality claims to have no authority to make an environmental determination, we are relying on the DEP to hear our position before making a final determination on the permit. (8, 9, 11)

**Response:** DEP provided a public comment period and held a public hearing to accept testimony on this project.

- 17. Comment:** Big Spring Creek will not receive the necessary protection from inadequate stormwater management (SWM) and BMPs including an inadequate PCSM plan.

Specifically, if contaminants enter the karst system through sinkholes or thin soils underlain by subsurface open fractures or voids, such contamination can travel long distances over a relatively short period of time through enlarged solution channels, conduits, etc. quickly discharging through springs which are frequent along Big Spring for its entire length and ultimately polluting the creek. The applicant's single proposed infiltration basin will concentrate stormwater over a karst geology which will actually contribute to sinkhole formation and the proposed infiltration BMP does not provide adequate water quality treatment.

Ground water in this area is already high in nitrates. The Cumberland Valley Trout Unlimited (CVTU) does not want to see the tremendous gains in water quality realized since the closure of the hatchery become negated by improper or ineffective agricultural BMPs for stormwater and water quality treatment. If inadequate SWM BMPs are not required the dissolved oxygen (DO) levels in Big Spring Creek will become worse. (13)

**Response:** The PCSM BMPs proposed for this project have been determined to be adequate. DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

- 18. Comment:** Coverage of the chicken litter to prevent dispersal by rainfall should be a basic requirement to protect water quality. (13)

**Response:** The applicant has revised his plans to include a covered chicken litter stacking shed.

- 19. Comment:** The current design was based upon minimal SWM requirements for a non-Special Protection waterway under a general permit. The proposed SWM plan, BMP design and PCSM plan are not reflective of the basic requirements for SWM in karst areas as outlined in the DEP Stormwater BMP Manual. CVTU believes the SWM plan is deficient for the following reasons:

- a. An initial site assessment to design the most effective SWM BMPs design was not conducted by the applicant. No geophysical survey was performed, no determination of groundwater elevations was conducted and no geotechnical or hydrogeologic report was conducted by a qualified and/or licensed professional. The plan does not discuss karst features and hydrogeologic conditions at the site, did not discuss groundwater hydrology, did not include actual field measurements



of soil thickness and an analysis of the capability of infiltrating stormwater within a constructed basin where the native soil mantle will be excavated, is not discuss how infiltration will be handled to avoid contamination of the groundwater aquifer, did not investigate a large area to delineate the most suitable and effective areas for infiltration and did not include a contingency plan if unexpected conditions or unmapped karst features are encountered during site excavation. There is no discussion to show how adequate infiltration will be achieved after excavating the basins. There is no discussion what is located under the 6 inches of loam/topsoil in the area of the BMP infiltration basin that will require significant excavation of up to 5 or 6 feet. The applicant should be required to perform these basic studies including a fluorescent dye test to fully characterize the ground water connection, flow paths and groundwater residence period due to the high probability of existing enlarged solution channels and conduit spring flow on the east side of Big Spring Creek where the facility is proposed in an upgradient recharge are.

- b. The proposed SWM BMP does not promote safe infiltration. There should be numerous infiltration BMPs throughout the site instead of just one. The proposed SWM BMP does not provide adequate water quality treatment. Adequate treatment can be achieved through the use of multiple stormwater basins.
- c. The PCSM plan is inadequate to protect the water quality of the High-Quality, Cold Water Fishes (HQ-CWF) stream segment of Big Spring Creek. The operation and maintenance plan does not provide sufficient detail concerning inspection and reporting requirements or what criterion determines if the BMPs are functioning properly. (13)

**Response:** DEP agrees that further evaluation by a licensed professional was necessary based on the applicants initial application and plan submittal. DEP did require the applicant to obtain applicable documentation about proposed stormwater controls from a licensed professional. Based upon subsequent revisions to the PCSM plan, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

**20. Comment:** The proposed operation should include additional SWM infiltration BMPs. (13)

**Response:** PCSM BMP design is at the discretion of the applicant as long as regulatory requirements are met. DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law.

**21. Comment:** The PADEP must require the applicant to implement the most effective SWM infiltration BMPs to ensure that existing HQ in-stream water uses and the level of

water quality necessary to protect the existing uses are maintained and protected. If the applicant should attempt to justify lowering the water quality in Big Spring Creek through the Social or Economic Justification (SEJ) process, CVTU requests that it be notified immediately. (13, 17)

**Response:** Based upon subsequent revisions to the application and plans, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

**22. Comment:** The Newville Borough Sewer and Water Authority and others are concerned that the facility will increase nitrate levels in waters that are used for drinking water purposes. The authority believes that the limestone formation in the area can be direct conduits to the local water supplies. The authority recommends a sealed concrete vault for manure storage. Because the nitrate level in the public water supply now averages about 8mg/l, an increase could result in the need for significant additional treatment with additional capital and operational costs. (3, 13, 14, 21)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek, including the public water supply use. Manure from the operation will be stored in a covered shed, which has a concrete base.

**23. Comment:** The Maximum Impervious Loading Ratio for impervious area draining to an infiltration area is 13.9 to 1, which is above the 3:1 ratio listed in the DEP BMP manual. The ratio for total drainage area to infiltration area is 25:1 which is above the 8:1 ratio listed in the DEP BMP manual. (14)

**Response:** DEP agrees that both loading ratios in the initial application were above the loading ratios identified in the DEP Pennsylvania Stormwater BMP Manual. The applicant subsequently revised the plans to reduce both loading ratios to an acceptable level based upon the justification provided.

**24. Comment:** There is a question whether the Criteria and Credits for BMP 5.8.1 Rooftop Disconnection and Storm Sewers contained in the DEP BMP manual has been met. (14)

**Response:** Rooftop disconnection and disconnection from storm sewers are no longer proposed as a PCSM BMP.

**25. Comment:** There is no discussion about why “unchecked” BMPs listed in the NPDES NOI Section D, Part 1 were not used. (14)

**Response:** Because non-discharge BMPs have been provided, additional justification is not required for the other “unchecked” or non-utilized BMPs listed in Section D, Part 1 of the Application.

- 26. Comment:** All areas that are proposed to be converted from cropland to grass must be clearly shown on the plan and protected from future agricultural practices as the reduction in Curve Number from cropland to grass was used to assist in meeting the peak rate control requirements at the site. (14)

**Response:** The proposed limit of earth disturbance activities has been shown on the E&S Control Plan and on the PCSM Plan.

- 27. Comment:** The commentator provided a valuable and enjoyable history of Big Spring Creek and is concerned about any activity that would increase the nitrogen level or decrease the dissolved oxygen level in the creek. (15)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality and existing and designated use of Big Spring Creek.

- 28. Comment:** Arsenic is present in chicken feed and it does leach into the groundwater. (2, 16)

**Response:** Types of chicken feed and its contents are not regulated by DEP. DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality and existing and designated use of Big Spring Creek.

- 29. Comment:** No Concentrated Animal Feeding Operation (CAFO) should be permitted unless they install a manure to energy type of combustion system or other innovative system that provides an alternative to spreading poultry litter on the land and eliminate other needed disposal methods that also risk soil and water contamination. (16)

**Response:** The proposed facility is not a CAFO.

- 30. Comment:** Dissolved nitrate-nitrogen concentrations results in declines to Index of Biological Integrity scores for aquatic macroinvertebrate species. This is because the dissolved nitrates result in excess weed growth and decomposition biological oxygen demand leading to low night time dissolved oxygen level, a decrease in aquatic insect diversity and ultimately a decline of the trout fishery. (13)

**Response:** DEP agrees that excess dissolved nitrate-nitrogen concentrations can lead to the problems identified by the commentator. DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25

PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

- 31. Comment:** DEP should determine if there is remaining assimilative capacity for nitrates by conducting a fluorescent dye tracing study to better understand groundwater flow paths. DEP should utilize available Index of Biotic Integrity data to form baseline conditions for each reach of the stream that may be affected. (13)

**Response:** DEP disagrees that this type of study is necessary. Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

- 32. Comment:** If there are no cost-effective and environmentally sound non-discharge alternatives, then the DEP should deny the permit. (13)

**Response:** DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek and therefore DEP issued the permit.

- 33. Comment:** Big Spring Creek must be protected at the highest level based on its economic importance to the area and many residents and businesses. (17)

**Response:** Big Spring is provided protection as a designated Special Protection water of the Commonwealth (25 Pa Code, Ch. 93). DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

- 34. Comment:** The permit, if approved will add Total Dissolved Solids (TDS) and Total Suspended Solids (TSS) and will cause biogeochemical changes in the pathways which will cause a collapse of the benthic community over time and fish populations as well as damage to the substrates and macrophytes. The commentator relates that he closely examined the models and data set forth by the applicant and the “Best Case Scenarios are fantasies.” (1)

**Response:** Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

- 35. Comment:** This farm is a CAFO. (1, 4, 16)

**Response:** The commentators are incorrect. The proposed facility is not a CAFO.

**36. Comment:** The facts are that Mr. Martin is a front for a corporation which franchises chicken factories. They believe you have no rights as individuals to protect our world class trout stream or your water supplies they can tell you anything they want but scientific facts, scientific literature and the history of these permits and the history of Big Spring are against them. (1)

**Response:** Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek, including the public water supply use.

**37. Comment:** DEP should review this permit application with the highest scrutiny, in regards to any modification of the hydrology and nutrient runoff to ground and surface waters, in order to protect Big Spring from additional nutrients and emerging contaminants associated with high density poultry. (18)

**Response:** Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

**38. Comment:** Severely impaired streams in the area are associated with high nutrients. (18)

**Response:** Without specificity about which streams this comment is referring to, DEP cannot respond to this statement.

**39. Comment:** Who is responsible if my well or Big Spring becomes contaminated? Will it be the farmer, the chicken corporation, PADEP, West Pennsboro Township, myself as the homeowner or myself as a tax payer? (9, 19)

**Response:** If a water of the Commonwealth is found to be polluted and a source of the pollution can be identified, then the party responsible for the source is responsible for the pollution.

**40. Comment:** Over 78% of the terrestrial perturbations going into the Chesapeake Bay come from farming and mostly chicken farming. (1)

**Response:** DEP does not know what the source of data for this statistic is, nor is DEP clear as to what the commentator is referring to and therefore cannot provide a more detailed response.

**41. Comment:** Water use at the proposed Martin operation may deplete my well and I may have to drill a new well, at my expense. (23)

**Response:** The water withdrawal will not affect the function of the E&S Control and PCSM Plan BMPs. This NPDES Permit does not regulate the operation of this facility.

**42. Comment:** DEP should require the applicant to post a bond for the applicants proposed poultry operation. (12)

**Response:** 25 PA Code, Chapter 102 regulations do not require bonding.

**43. Comment:** If this application must be approved, two caveats should be placed upon the approval-1) no runoff comes from the facility; 2) if the manure is sold to someone else, that it not be put on land that can run into Big Spring. (24)

**Response:** The facility has been designed to prevent polluting runoff from discharging to Big Spring Creek. The implementation of manure management practices at this facility is consistent with environmental and agronomic standards. Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

**44. Comment:** This commentator expressed a concern about what will happen to the water withdrawn from the aquifer, possibly as much as 10,000 gallons per day from these two chicken barns. (10)

**Response:** The water withdrawal will not affect the function of the E&S and PCSM BMPs. The facility has been designed to prevent polluting runoff from discharging to Big Spring Creek. Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek.

**45. Comment:** These commentators indicated that if DEP must grant this permit, permit conditions should be added that prevent the discharge of effluent to Big Spring from the operation and that, among other things, ensure adequate inspection oversight of the operation and management of the manure. (7, 28)

**Response:** Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek, and the permit conditions and regulatory oversight that currently exist are adequate to ensure compliance with the permit and applicable regulations.

**46. Comment:** This commentator indicated that the DEP should carefully examine whether the expanded Martin farm (assuming population of second poultry barn) constitutes a CAFO. (29)

**Response:** DEP evaluated whether the Martin farm would be a CAFO with expansion and population of a second poultry barn and has determined that at this time, it will not be a CAFO based on information available to DEP.

**47. Comment:** This commentator indicated that the rainfall amount identified in the application for a 2-year, 24 hour storm event in the project area is incorrect. (29)

**Response:** The Applicant subsequently revised the application using the correct rainfall data.

**48. Comment:** These commentators indicated that the application does not satisfy the requirements of the antidegradation program. (11, 29)

**Response:** Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek, including the public water supply use.

**49. Comment:** These commentators indicated that the Department may not act on this pending NPDES permit application unless Martin has an approved Nutrient Management Plan (NMP). (11, 29)

**Response:** The applicant is not required to have an approved NMP. However, even if an approved NMP was required, it is not a prerequisite for permit approval under 25 PA Code, Chapter 102.

**50. Comment:** This commentator indicates that the Federal NPDES standards for CAFOs are being revised and requests that this NPDES construction stormwater permit application be denied pending the new standards being implemented in order to protect the aquifer from the applicant's project. (12)

**Response:** The applicant's project is not a CAFO.

**51. Comment:** This commentator questioned at what size storm event the infiltration basin will discharge. (3)

**Response:** The proposed infiltration basin has been designed to capture and control storm events up to a 10-year storm event without any discharge from the basin.

**52. Comment:** This commentator submitted multiple substantive comments based on a review of this NPDES permit application (in 2011), the E&S Control Plan, the PCSM plan, and status as a potential Concentrated Animal Operation by a Licensed Professional Geologist. (11)

**Response:** DEP appropriately considered the comments provided. Based upon comments that DEP provided to the applicant, the applicant subsequently revised the plans. Based upon the final plan revisions submitted by the applicant, DEP has determined that the applicant has demonstrated that the NPDES Permit application complies with the requirements of 25 PA Code, Chapters 92a, 93, 96 & 102, The Clean Streams Law, and protects and maintains the water quality, existing and designated use of Big Spring Creek, including the public water supply use.

**53. Comment:** These commentators indicated that the applicant's farm will be a CAO once the second barn is populated with broilers and that the applicant should complete an Act 38 NMP per CAO regulations. (11, 29)

**Response:** The State Conservation Commission is the responsible agency for the CAO program. The applicant will need to comply with the applicable Act 38 requirements if he is proposing to become a CAO.