

EPA Admits Aerial Surveillance of Farms



BIOSECURITY PRECAUTIONS WERE taken before government officials were given entry to the Steve Conrad farm in Fort Seybert. An EPA official wears the canary yellow.

On June 16, officials from the federal Environmental Protection Agency (EPA), the state Department of Environmental Protection (DEP) and the state Department of Agriculture visited the Fort Seybert farm of Steve and Jane Conrad.

The lead EPA official was Ashley Toy. Also present for the inspection of the Conrads' poultry and cattle operation were David Seymour of the West Virginia University Extension Service and two representatives of the Virginia Poultry Growers Cooperative (VPGC), Danny Wilburn and Mickey Baugher. Steve Conrad has been a member of the VPGC's board of directors since the cooperative was formed in 2004.

Why the Conrad farm was one of the four in the eastern panhandle chosen for inspection by the EPA two weeks ago is uncertain.

It was acknowledged during the visit to Conrad's farm that federal officials had conducted aerial surveillance of his and up to 70 other area farms on Nov. 9, 2010.

Conrad was informed of the impending visit first by the VPGC and then by Toy in a courtesy telephone call.

A purpose of the inspection appears to have been a training session by EPA officials for state officials on how to implement and enforce new rules in West Virginia as they apply to a Concentrated Animal Feeding Operation (CAFO), especially medium-sized CAFOs.

The number of turkeys raised on the Conrad farm falls within the legal definition of a medium-sized CAFO.

At this time in West Virginia, only a large CAFO is required by law to obtain a NPDES permit. Those permits are required of point sources of water pollution. Until recently, almost all farming operations in the state were regulated as non-point sources of pollution.

Textbook examples of point sources of pollution are drains or ditches emptying directly into waterways or smokestacks belching smoke into the atmosphere.

Run-off from farms was considered the textbook definition of a secondary, or non-point, pollution source.

Under stern prodding by the EPA, state guidelines are shifting to the regulation of medium

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as well as large farming operations as point-source polluters.

That shift of regulatory focus, along with the size and scope of the TMDL (pollution "diet") imposed as part of the multi-state effort to restore the Chesapeake Bay, has had a disquieting effect on West Virginia farmers, as well as those in the neighboring Shenandoah Valley.

In the past, farmers worked with state and federal agencies to implement pollution reduction measures on a voluntary basis. The implementation of BMPs (best management practices) was central that non-coercive approach to conservation.

A more compulsory approach began to take shape after President Barack Obama stepped up the timeline for completion of the Chesapeake Bay clean up. EPA insisted that West Virginia incorporate CAFO provisions into law in ways that mirrored federal rules and standards, including those for medium-sized farms.

That has had a chilling impact on the agricultural community, where it is feared that the day may be coming when even small farms will be required to obtain NPDES permits or face the threat of heavy fines.

The inspection of Conrad's farm lasted from around 1:30 p.m. until 5:30 p.m. It was described as cordial and resulting in "a friendly and philosophical discussion" of the issues raised by the state's new CAFO rule.

The visitors walked around the farm, paying particular attention to the turkey houses. Toy posed questions such as, "What is done with mortality?" and "What is done with the litter?"

Between 98 and 99 percent of the water on the Conrad farm flows into field and not into any waterway.

However, there is a ditch about 75 feet in length that runs past a litter shed and a compost shed.

The ditch is heavily grassed, but at one point it directs water flow through a culvert beneath an access road before emptying into Swamp Run.

Swamp Run is a dry creek bed for part of each year, but it does flow into the South Fork River.

It is reported that, "When Toy saw that she was done. She had seen everything she needed to see."

The Conrads were told they would have to obtain a NPDES

permit for their farming operation.

Steve Conrad told his visitors the ditch could be altered to run off into a field instead of Swamp Run. When he asked if doing so would relieve him of the need to get an NPDES permit, EPA and DEP officials replied that they "did not know" or were "not sure" or said they "can't say."

The "do not know" and "can't say" answers surfaced again after Toy indicated she has problems with open-sided litter sheds.

That shed design is the one favored and mandated by the Natural Resources Conservation Service (NRCS), a US Department of Agriculture agency. Toy said the open-sided design concerned her because water will blow in on the litter.

Conrad is planning to put up a new litter shed for his cattle operation. When he asked if an open-sided shed would pass muster under forthcoming standards, the regulatory officials

shrugged and again answered, "Don't know," "Can't say."

These anecdotes illustrate the uncertainty that grips the agricultural community as regulatory scrutiny increases and the point-source regulation of medium-sized farms begins to take shape.

For example, Toy also questioned the accuracy of the term "family farm" to describe the Conrad operation. She preferred to call it a "blend," apparently because the poultry operation is under contract with the VPGC.

She was informed that many farming operations in this area are family-owned and sustained by contracts with corporate entities such as Pilgrim's, Perdue, Tyson and VPGC, among others.

Toy also made it clear that the job of environmental enforcement leaves no room for concern with the economic or social aspects of the farming enterprise. She indicated that consideration of slender profit margins or the

number of people employed by an agricultural operation is irrelevant to her.

She also indicated that it makes no difference if the amount of stream discharge from a farm is a teaspoon or five tons. Either way, the regulatory standard remains the same.

That kind of regulatory zeal and inflexibility worry more than one participant at the Conrad farm inspection.

Frustration on the part of farmers and agriculture professionals stems from the fact that best management practices (BMPs) have been shown to improve and maintain high water quality standards in the Potomac watershed.

EPA regulators, on the other hand, seem at best grudging in their recognition of the strides made over the years through the voluntary partnership of producers, researchers and state and USDA personnel.