

March 26, 2009

Marion County Planning Commission  
Marion County Courthouse  
200 S. 3<sup>rd</sup> St.  
Marion, KS 66861

To the Marion County Planning Commission:

The following comments are submitted in regards to the "Conditional Use Pending" for applicants, Dale Peterson and Mike Beneke for the conditional use labeled "Feed yard Operations".

In Marion County, Kansas – Zoning Regulations, Article 14 – Plan Approval Guidelines, part 14-103 Development Plan, item #4 states "A development plan for any of the conditional uses listed below, or for any other use which significantly affects the quality of the environment, must be accompanied by an environmental impact statement:". The first item listed (labeled "A.") is "Commercial stockyard or feedlot." Kansas Department of Health and Environment for purposes of requiring a permit for a feedlot uses 300 animals or more weighing in excess of 700 pounds in a confined area, thus both applicants fit this definition of a feedlot. The Environmental Impact Statement for a commercial feedlot should at least include the following items.

1. A plan that would address the effect of an extraordinary rain event, 8 inches or more, on drainage systems and lagoon capacities.
2. The applicant's ability to insure or bond the facility in the Conditional Use Permit to cover environmental damage in the event of a leak or breach of the lagoon structure.
3. A detailed description of the lagoon construction and necessary maintenance practices.
4. A plan to monitor surface water and groundwater quality on a regular schedule.
5. A closure plan for the facility that addresses environmental issues with a return to original land use designation.
6. A plan to dispose of dead animals in an approved environmentally sound way.
7. A dust control plan.

Both of the applicants have been operating feedlot facilities for some years without State or Federal permits and are only now obtaining the permits and doing the necessary work to conform to regulations. Both applicants have been cited by KDHE for improper operation of a confined cattle operation and in the case of Mr. Beneke fined \$31,000. Since these actions took place over three years ago and involved Marion County personnel familiar with zoning regulations why were the applicants not required to apply for a Conditional Use Permit three years ago or even earlier? In a March 4, 2009 edition of the Marion County Record a story reporting about an interview with Mr. Beneke on July 19, 2006 had him stating that, "Officials knew I was here before but without any complaints, nothing could be done." This does not strike me as an indication of

respecting and recognizing the rules and regulations that govern the industry and protect water and the environment. Given the past experience can the applicants be trusted to conform to applicable rules and regulations and report any problems to their downstream neighbors?

Marion County has a surface and groundwater pollution problem that has been growing over the years. The Marion County Planning Commission with the enforcement of its zoning regulations is one of the best places to assess and mitigate the impact of land use on the environment. Because of the local nature of the board they are in the best position to evaluate development plans and consider the concerns of neighbors and community with the guide of a Comprehensive Plan.

Harry E. Bennett  
1761 Remington Road  
Marion, Kansas 66861