Brief Overview of the Sierra Club Iowa Chapter's Petition for Judicial Review

Supreme Beef LLC proposes to construct and operate a cattle feedlot housing 11,600 head of cattle. It would be one of the largest animal feeding operations in Iowa. In order to operate. Supreme Beef was required to prepare a nutrient management plan (NMP) showing that manure from the operation would be applied to crop fields in an agronomically appropriate manner to avoid runoff of nutrients to water resources. And the Iowa Department of Natural Resources (DNR) was required to approve the NMP.

The Iowa Chapter, many of its members, and the Committee to Save Bloody Run submitted comments challenging the NMP because it relied on incorrect information, improperly calculated the proper amount of manure that could be applied to the crop fields, and failed to protect Bloody Run Creek, a trout stream that is designated as an Outstanding Iowa Water. The points that were raised in criticizing the NMP were:

- The manure storage structure is not appropriate for a cattle feedlot
- Supreme Beef is undercalculating the amount of manure it will produce resulting in 1.3 million pounds of Nitrogen and Phosphorus that are unaccounted for
- When the correct amount of manure produced is taken into consideration, there are not enough acres to receive manure for the site
- Manure fields do not have a current soil test, as required by Iowa law, to determine the existing amount of Phosphorus in the soil
- The NMP claims that many of the manure fields will receive manure and commercial fertilizer but does not factor the commercial fertilizer tillage into the RUSLE2 soil loss prediction.
- The NMP only accounts for two types of erosion, Rill & Interrill erosion, leaving out Ephemeral Gully and Classical Gully erosion. Ephemeral Gull and Classical Gully erosion are critical to determine how much phosphorus will run off with the soil erosion.

● The NMP failed to accurately calculate the distance from the center of the field to the nearest perennial or intermittent streams on 13 fields
● 3 fields have a P-index greater than 5 and more fields may be above 5 if proper ephemeral gully erosion is included in the calculations - fields with a P-index greater than 5 cannot receive manure until appropriate conservation practices have been established to reduce the P-index to 5 or below
● 98% of the manure fields are Highly Erodible Land (HEL) and manure should not be applied on fields with greater than 10% slopes that have no soil erosion control practices
● 92% of the manure fields have phosphorus soil test results in the High or Very High range - they do not need any more phosphorus and Iowa law recommends it not be increased - this shows how manure is not being treated as a nutrient, but rather a waste product
● DNR should have done an antidegradation review for facilities that will likely cause degradation of water quality - Bloody Run Creek is an Outstanding Iowa Water entitled to a Tier 2.5 protection under Iowa's Antidegradation Policy
● DNR should have used their authority established in Iowa law to deny this NMP based upon a careful consideration of environmental factors.

It is worth noting that the DNR's action in this case is not unique. DNR has a history of insufficient regulation of animal feeding operations. However, this case is especially important because of its impact on an Outstanding Iowa Water. Iowa has a terrible water quality problem all over the state, largely due to manure pollution from animal feeding operations.

The Sierra Club Iowa Chapter argues that the DNR decision should be reversed by the court because it is:

- Based upon a determination of fact not supported by substantial evidence
- A decision in which the agency did not consider a relevant and important matter relating to the basis of the decision
- Based upon an unjustifiable application of law to the facts
- Based upon an unjustifiable interpretation of law
- Arbitrary, capricious, unreasonable, or an abuse of discretion