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February 12, 2016

Mr. Douglas Ashline
Division of Water
NYS Department of Environmental Conservation
625 Broadway, 4th Floor
Albany, NY 12233-3505

RE: Concentrated Animal Feeding Operation Permits GP-0-16-001 and GP-0-16-002

Dear Mr. Ashline,

On behalf of our member families, New York Farm Bureau (NYFB), the state's largest general farm organization, appreciates the opportunity to provide comments on the NYS Department of Environmental Conservation's (DEC or the Department) draft permits referenced above for farms classified as concentrated animal feeding operations (CAFO). Our organization has been involved in New York's CAFO program since its inception, a commitment that mirrors our members' dedication to on-farm environmental sustainability. Since the first version of the CAFO general permit was issued in 1999, New York farms have spent countless resources on bettering their environmental management and continue to live out that commitment every day on the farmstead and in the field.

Continually improving water quality and environmental health is a paramount priority of New York farmers. This priority could not be achieved without the collaborative effort of numerous partners. NYFB gratefully acknowledges the valuable contributions made by each of these partners including DEC, NYS Department of Agriculture & Markets (NYS DAM) and NYS Soil & Water Conservation Committee (NYS SWCC), USDA-Natural Resource Conservation Service (NRCS) and Cornell University/PRO-DAIRY.

We are appreciative of the DEC staff that contributed significant time and energy to the CAFO permit development process, involving all stakeholders and several agencies. NYFB is grateful and supportive of the Department's inclusion and use of the CAFO workgroup, of which NYFB is a member. We believe the CAFO workgroup's involvement throughout the permit development process has been very beneficial for the CAFO program and farm community, particularly in developing permit expectations for various new changes in management requirements.

Farmers want to do the best possible job in protecting the environment and endeavor to implement the best protection practices possible. With this goal in mind, we respectfully offer the following comments to improve the draft permits.

GENERAL COMMENTS ON CONSTRUCTION OF PERMIT DRAFTS

NYFB applauds several changes to the construction of the proposed draft in comparison to previous permits. We support how DEC prudently uses prescriptive and performance requirements throughout the permit draft for more meaningful development of a farm's nutrient management strategy. This makes for a holistic farm plan that is less reactive and more preemptive in identifying and neutralizing

any risk of non-point source run-off. NYFB also appreciates how permit language brings clarity to permit expectations through specificity which will assist permittees in achieving CAFO compliance. We also support the way DEC has reorganized the structure of the CAFO permit to be more understandable and “user-friendly” for farmers and planners. Lastly, we applaud the permit’s continued focus on practical, science-based approaches to water quality protection that do not place undue burden on family farms. We believe these changes will make for a stronger CAFO program, improved compliance and further sustainable incorporation of best management practices on the farm.

SPECIFIC COMMENTS REGARDING DRAFT GP-0-16-001 - ECL PERMIT AND DRAFT GP-0-16-002 - CWA PERMIT

(Comments pertain to both the ECL and CWA drafts unless otherwise indicated.)

I. PERMIT COVERAGE AND LIMITATIONS

Part I.A. Permit Coverage - NYFB is generally supportive of DEC’s proposed qualifications for eligibility under this ECL permit draft. We believe farms that have implemented nutrient management plans and associated BMPs as proposed by DEC and under the guidance of pertinent agricultural environmental standards do not discharge and do not propose to discharge. As written, the ECL permit draft continues the CAFO program’s strong focus on science-based analysis of environmental risk, which NYFB heartily supports.

Under exclusions from permit coverage (Part I.A.3a), NYFB recommends that exclusions from permit coverage be limited to CAFOs with an ongoing water quality standard violation that have not shown intent or action to correct or remediate the violation. NYFB respectfully asks that this language be amended to reflect this distinction. As drafted this language could capture those CAFOs who look to correct their violation but have not yet fully implemented their remediation strategy designed in conjunction with their certified planner and other necessary agricultural service professionals due to lack of time or financial hardship. This provision is particularly important for CAFOs that, due to varying reasons such as farm-site design or financial condition, have an above average cost of compliance and require more time to meet their compliance goals.

If retained, we recommend Part I.A.3d in the ECL permit specify “ongoing” discharges of process wastewater to surface waters of the State be an exclusion, so that a one-time violation that has been corrected and practices are now in place to prevent a recurrence does not disqualify a farm from the permit.

II. OBTAINING/TERMINATING/CHANGING PERMIT COVERAGE

Part II.A.1-3 Duty to File Notice of Intent – NYFB appreciates the clear and detailed timeframes and procedures through which farmers will be alerted that ECL coverage has been granted or receive automatic coverage as dictated in this permit section. These clear timeframes and protocols provide regulatory certainty and establish good communication between DEC and the farm community, which is highly valued. NYFB also appreciates that CAFO farms are only required to file a NOI and CNMP certification to obtain permit coverage. This is a good example of minimizing paperwork and recordkeeping where there is no additional environmental benefit to be gained.

Part II.A.4 Duty to File Notice of Intent for CWA Permitted CAFO – For existing CWA permitted operations that are requesting ECL permit coverage, there is no specified timeframe in which DEC will

respond to permittees regarding approval or denial of their requested ECL permit coverage. For the reasons mentioned above, NYFB respectfully requests DEC amend this section to include a specified timeframe for agency response to the farmer after receipt of their NOI and CNMP certification. NYFB recommends that DEC provide a response as to whether coverage is granted no later than 60 days following submission of their NOI and CNMP certification.

Part II.B.2a Change in Operation – Based on feedback from the planner community that works with our members, NYFB recommends that subparagraph (5) be replaced with the following language, *“Within 30 calendar days after the CAFO downsizes from a Large CAFO to a Medium CAFO.”* The planner community believes this to be a more realistic and workable timeframe than the proposed timeframe of 15 calendar days before downsizing to a Medium CAFO. This language change is most pertinent if a compliant facility is forced to downsize due to some unplanned occurrence, such as a fire or barn collapse.

Part II.C.A Duty to File Notice of Termination – NYFB does not contest that farms terminating permit coverage due to declining animal numbers below the minimum threshold that defines a medium CAFO should maintain structural BMPs and continue their land applications and manure management under the guidance of a nutrient management plan. However, NYFB questions how the agency intends to compel compliance with this section once the farm is no longer a permitted CAFO and outside the parameters of its authority. NYFB respectfully recommends that this paragraph be removed from the permit draft.

III. COMPREHENSIVE NUTRIENT MANAGEMENT PLANS

Part III.A.3c Newly Acquired CAFO by Existing CAFO – NYFB questions how shared use of “fundamental operational resources” will interact with the definition of “Common Ownership”. The current permit allows permittees to make an election as to whether or not to include the newly acquired facility into the currently permitted facility if there is “Common Ownership”. The draft permit should look to whether operations “share fundamental resources” only if the facilities meet the definition of “Common Ownership.”

Part III.A.3e BMP Enhancements – NYFB strongly supports enhancement practices on the farm whenever possible but appreciates the stated clarification that enhancement practices are not subject to the requirements and timeframes established in this section.

Part III.A.4 Compliance with NRCS Standards - NYFB strongly supports this section which allows all existing BMPs that meet the water quality protection intent of the current NRCS standards or that can be updated to meet their water quality protection intent through either structural or non-structural changes to remain in place. Our farmers know that newer is not necessarily better and effectiveness takes precedent over trending practices. This important CAFO program policy reflects this practical environmental planning strategy by allowing farms to implement environmental protection in a cost effective manner and enable scarce financial resources to be used on other required BMPs in furtherance of actual water quality protection.

Part III.A.5 Wet Weather Standard Operating Procedures – Our members have a strong commitment to environmental sustainability and protection under the new weather “norm” that has established itself over the last few years. Our farmers are focused on eliminating run-off risk in this protracted pattern of wetter winters, more extreme storm events and capricious weather variability. NYFB believes the wet weather standard operating procedures (WWSOPs) introduced in this permit draft may provide deeper

insight and oversight by farmers into the more intensive weather-related farm impacts that are now anticipated, such as steeper changes in rain erosivity in production areas. However, because this is a new component of a CAFO plan and both planners and farmers will be learning how best to develop these WWSOPs, we encourage the Department to work with planners and farmers in an educational setting after the permit is finalized to talk through questions and concerns that may arise as we begin to actually implement this component. NYFB believes the best way to implement this new aspect is through a close cooperative relationship with DEC and the regulated community.

Part III.A.7b Emergency Action Plan – NYFB believes a narrative identifying potential water resources that could be impacted by spillage or an emergency situation should be an option to satisfy the requirement listed under this subsection. All necessary information can be obtained through the use of a narrative by the farm, including a description of the water body combined with the specific latitude and longitude of the farm.

Part III.A.8 Waste Application Requirements – NYFB agrees that a farm’s CNMP should be developed according to the NRCS NY590 Standard with a focus on preventing runoff during any and all applications. NYFB is strongly supportive of the ability for farmers to spread manure at all times of year provided it is done in an environmentally responsible manner that supports nutrient distribution at agronomic rates which prevents run-off to surface and ground water. Again, as stated previously in these comments, our members never want to lose nutrients to the environment and are always improving their nutrient use efficiencies.

NYFB does not believe that a spreading ban based on a season or calendar date is an environmentally responsible strategy. This type of spreading ban is a one-size-fits-all, oversimplistic regulatory approach that defies proper nutrient management and does not guarantee water quality protection. Water quality gains come from science-based, research-tested best practices being used in precise applications at an appropriate rate at opportune times throughout the year under the guidance of the farm’s CNMP rather than force all farmers at all management levels to apply during an exact time frame. For this reason, NYFB strongly supports well-planned applications of nutrients at agronomic rates under the guidance of the farm’s CNMP under appropriate weather conditions throughout the year.

ECL Part III.A.8b/CWA Part III.A.7 Adverse Weather Applications - NYFB believes the 2015 Revised Cornell Guide “Supplemental Manure Spreading Guidelines to Reduce Water Contamination Risk During Adverse Weather Conditions” cited in this section to be a great asset as farmers adapt their daily operations to accommodate the “new normal” for northeast weather. It will be very effective in broadening farmers’ understanding and response to nutrient movement onto, within and away from the farm that would be practically reflected in the farm’s CNMP.

However, we would like to note the authors of the Cornell Guide did not draft this document as a regulatory tool, but as educational guidance for farmers and the planner community. As drafted, this permit proposal gives the full weight and authority of a permit requirement to the content of the Cornell guidance. Because of this distinction, we respectfully request that the NRCS NY 590 Standard be used as the required technical standard to be complemented by the Cornell Guide as a consideration, rather than as a document to make decisions in accordance with since it necessarily requires farmers to take a number of factors into consideration before spreading. If this recommendation is not adopted in the final permit draft, our members and their planners will be putting their best efforts forward to comply with the details of this guidance, but they will need DEC’s direct assistance to educate them outside of the inspection process as to whether or not compliance has actually been met.

Because the science is constantly emerging, NYFB encourages continued periodic review of the recommendations that constitute the Cornell guidelines for spreading during Adverse Weather Conditions and also DEC and Environmental Protection Fund support for ongoing research through Cornell University, including PRO-DAIRY and Cooperative Extension, to ensure that farmers have the most relevant information to protect the environment while not unnecessary hampering sound nutrient delivery practices.

NYFB also supports the reasonable provisions for emergency manure application, such as holding specific fields in reserve for adverse weather applications.

ECL Part III.A.9/CWA Part III.A.8 Contractor Certification Statement – NYFB recommends amending this section to specify that signed contractor certification statements should only be required from each contracted professional once annually, unless land is added to the CNMP or there is a change to the CNMP which must be communicated to the service provider, with signatories being limited to the “managerial representative” or an equivalent. As drafted, the parameters for acquiring contractor certification statements need to be more fully developed in order to make compliance requirements clear to permittees, particularly as it pertains to permissible signatories and frequency of acquiring signed statements.

Part III.B.5 Leachate Collection and Control Facilities – NYFB strongly supports the flexibility provided to certified planners in this section. This provision recognizes that truly effective environmental planning can only be accomplished when it is farm-site specific and based on geographic-specific risk conditions. When farmer and planner work together to figure out what site-specific practices work best at the most economical cost, it’s a sustainable win-win for the farm and environmental protection.

NYFB does respectfully recommend amending the first sentence of this section as follows:

*“Leachate collection and control facilities must be implemented operated and maintained in accordance with ~~all applicable NRCS standards~~ **Part III.A.4 of this permit** to prevent overflow or discharge of the concentrated, low-flow leachate products.”*

We feel the reference to NRCS standards alone narrows the tools available to farmers to develop the best environmental strategy for their farm. As drafted, this provision does not promote voluntary adoption of any new guidelines that may enhance water quality protection as it pertains to leachate.

Part III.B.10 Water Wells Protection – NYFB believes that farms must take responsibility for impairments to water quality if a discharge occurs to waters of the State. NYFB also believes that farms should be held accountable for water quality impairments of drinking wells, but only if such drinking wells are correctly designed, constructed and maintained. Our farms do the best job possible to protect water quality in the face of tremendous variables, make a point to know where neighbor’s wells are located and follow the mandated manure spreading setbacks. We feel farms cannot be held responsible when owners of drinking wells do not assume personal responsibility for the protection of their drinking water source. NYFB recommends that this be reflected by amending the language as follows, *“There shall be no water quality impairment to **properly designed, constructed and maintained** public or neighboring private drinking water wells due to waste handling at the permitted CAFO.”*

Part III.B.11 Pesticides – NYFB believes this section to be superfluous as the provisions of this section are duplicative of existing statute and regulatory oversight, particularly 6 NYCRR Part 326. NYFB respectfully requests this paragraph be removed from the permit draft.

This section also states “*Certification of pesticide applicators may be required.*” NYFB respectfully requests clarification on specific parameters when this provision is applicable and when it is not for purposes of CAFO compliance. Again, we feel that this language is duplicative and should be removed from the permit since it provides no meaningful contribution to permit compliance or environmental planning.

NYFB supports the last sentence of this section and does not believe items like footbaths will be restricted by this provision, provided they are handled in a way to prevent pollutants from entering the waters of the State.

Part III.C.2 Manure Applicator Training - As regulations, standards and best management practices continue to expand and evolve, NYFB believes it is important to keep farm staff and owners apprised and focused on what efficient, effective and environmentally sound nutrient management means for their farm. For this reason, NYFB supports manure applicator training and on-site review of the CNMP and its focus on agronomic application of manure under the right field and weather conditions. We support the requirement for large CAFOs and encourage medium CAFOs and any other farms that make land applications to attend manure applicator training.

Furthermore, we support development of the ability for planners and others to deliver Department-endorsed manure applicator training. While we certainly support the use of webinars to deliver this training, one does not currently exist and for that reason we recommend that the reference in the permit to “Cornell’s Manure Applicator webinar” be changed to “DEC-endorsed manure applicator training” in order to more accurately and broadly reflect a variety of training tools and delivery methods that could be developed during this permit cycle and endorsed by the Department to meet these training requirements. NYFB stands ready to assist our partners at DEC, NYS Department of Agriculture and Markets, NYS Soil and Water Committee, NRCS, PRO DAIRY/Cornell University and NEDPA to assist in delivering training.

Part III.E.2 Duty to Amend the CNMP – The vague language in Part III.E.2(a) is overbroad and unduly burdensome. DEC should be specific about the operational changes it wants submitted so farm owners, planners and inspectors have clear compliance expectations. This vague language should be omitted or revised to reflect the same level of specificity provided in Part III.E.2(b and c).

IV. MONITORING, REPORTING & RETENTION OF RECORDS

Part IV.F.3 Weather Conditions – We recognize that farmers need to be cognizant of weather conditions during and around the time manure is spread. However, we feel that certain aspects of this record keeping requirement are needlessly burdensome and should be streamlined to the extent possible.

We acknowledge that weather conditions at the time of land application is an appropriate and relevant record to keep. We do not believe a record of the forecasted weather conditions before spreading begins is needed since such information is outdated the next day when the farmer is making manure spreading decisions based on current field and weather conditions.

Part IV.F.4 “Depth Marker Reading” – It is our understanding that this section’s intent is not to measure manure in an open storage but to determine the amount of available freeboard or remaining capacity until maximum fill. Storage depth does not accurately reflect maximum storage capacity. To make

prudent nutrient management decisions, a farmer should be focused on his/her last 18 inches of freeboard rather than concern themselves with the day's manure depth. For this reason, "depth marker" should be replaced with the term "freeboard marker" to be consistent with the actual intent of this provision. The same change should be made in Appendix AR for the definition of depth marker, and in Part III.B.3.a regarding Waste Storage Structures.

ECL Part IV.G./CWA Part IV.H. Recordkeeping Requirements for CAFOS Using an Anaerobic Digester - Part 360 governs the safe and productive use of food grade by-products and food processing wastes in its permit process. If a CAFO does not add any of these by-products or sanitary waste to the anaerobic digester, Part 360 is not applicable and no record keeping is required. NYFB requests that the final CAFO permit draft reflect this same policy and not require recordkeeping for CAFOs that are only feeding on-farm manure and other on-farm material to its anaerobic digester. Volume reporting and traceability of on-farm materials feeding the anaerobic digester are already accomplished in the CAFO's CNMP. As drafted, this section is a duplicative requirement that would hinder growth of anaerobic digester facilities and their corresponding environmental and economic benefits.

CWA Part IV.F.1. Annual Nutrient Management Plan- NYFB appreciates the reasonable and sound parameters for defining "significant" farm changes triggering immediate submission of a revised ANMP. A permit requirement that goes beyond these parameters for definition of "significant" change, particularly any farm changes made within the scope of current NRCS standards or the NMP, would be duplicative and not provide any additional environmental benefit or information transparency through the public noticing requirement.

As drafted, the public noticing requirements in this section balance public hearing requirements with the reality of daily farm operations conducted under the guidance of a farm-specific nutrient management plan. Nutrient management and other on-farm activities are dynamic processes that farm staff adaptably manages within the scope of a well-designed NMP for maximum environmental protection and optimal nutrient use efficiency. These are not "significant changes" as they are already accounted for in development of the NMP and/or in accordance with permit terms.

We respectfully request the permittee be notified of the Department's decision to either extend the public comment period, require submission of a SPDES permit application or accept the farm's ANMP immediately after the 30 day comment period.

Part IV.I. Electronic Recordkeeping – NYFB appreciates the option to keep and maintain records electronically for those farmers who would like to do so. We believe electronic copies carry the same weight and legal effect as paper copies and handwritten signatures, as is done in real estate and other industries, and is supported by the federal Uniform Electronics Transactions Act of 1999. NYFB respectfully asks DEC to acknowledge or respond to this in its comment response as some members have received conflicting feedback from different DEC offices.

V. STANDARD PERMIT CONDITIONS

Part V.M. Inspection and Entry – Our member farms are complex businesses with significant biosecurity concerns including foreign and emerging diseases. Our members rely on biosecurity protocols to protect their land, their natural resources, their animals and their livelihood. We believe, whenever possible, notice of farm inspection should be made in order to allow inspectors to perform their duties while

submitting to reasonable farm biosecurity procedures. We strongly feel that minimal advance notice of a day(s) would in no way preclude or diminish the findings of the CAFO inspection.

Part V.S. Availability of Reports – NYFB is extremely disappointed with the denial of all claims of confidentiality for NOIs, permits, effluent data, Annual NMP submittals and Annual Compliance Reports (ACR). From the perspective of the farm business owner, the NMP, ACR and its individual components are confidential business information and very clearly qualify for consideration for protection under the NYS Freedom of Information Law provided under the NYS Public Officers Law (Article 6-A). At a minimum, NYFB objects to such information being disclosed without prior notice to the farm/submitter when such information has been designated confidential business information (CBI) by the farm. NYFB respectfully requests that this specific provision be removed from the final permit draft.

General Comments Regarding Issues Impacting the CAFO Permit Program

DEC-Sponsored Farmer Education

The CAFO permit is not an educational tool but a tool for identification of conservation needs on the farm. Farmer education must go hand in hand with development of the CAFO permit to bring continual and lasting water quality protection – the end goal of the CAFO program.

This is particularly important for this permit cycle where several new CAFO program requirements have been introduced and with which implementation and compliance are expected immediately. Of particular importance, wet weather standard operating procedures require BMPs to be managed to accommodate a 100-year, 24-hour storm event. Despite the well-written language in the permit and 2015 Revised Cornell Guide, there is no specific standard to reference in preparing for a 100-year, 24-hour storm event and, therefore, no clear expectation on what proper compliance entails for farmer and inspector.

NYFB respectfully requests specific training by DEC for these new permit elements in order for farmers to become the expert managers of high consequence weather events that the Department would like to see demonstrated on the farm and documented in permit recordkeeping and reporting. On-farm trainings like “the CAFO roadshow” are excellent opportunities for farmers to learn how to adapt their CNMPs to meet the 100- year, 24-hour standard, especially when existing farm structures, infrastructure and practices have been designed to the 25-year, 24-hour standard.

We are confident that this type of DEC-sponsored training will give farmers and planners the direction they need and elevate smart farm management so all CAFOs will enter this new permit cycle prepared for whatever Mother Nature may bring.

CAFO INSPECTION AND ENFORCEMENT

NYFB believes fair enforcement is a key component to a robust CAFO program. DEC and its staff have always acted to protect the waters of the State with strong conviction, long before it become their statutory obligation through federal mandate. This commitment is seen in the administration of the CAFO program and the staff’s willingness to collaborate with stakeholders, like NYFB, for the best possible outcome in agricultural environmental management and water quality protection. However, this commitment has not been met with sufficient state funding and staffing resources, which has led to inconsistent and sporadic CAFO inspections within and between the nine DEC regions. NYFB respectfully recommends that inspections of CAFO farms, medium and large, be more evenly distributed among the

regulated community and that farms not be inspected more than once during a five-year permit cycle, unless there is an accidental discharge or violation of the Clean Water Act.

NYFB would also like to see uniformity in compliance expectations during inspection within and between the nine DEC regions. Our members' inspection experiences have differed significantly throughout the State leading to confusion over what constitutes true compliance for permit requirements. This also contributes to hesitancy of adopting more costly operational improvements in response to permit changes when, in practice, there appears to be no clear statewide inspection standard to hold all farms accountable. NYFB respectfully recommends that a clear, reliable, uniform standard be communicated to and followed by all inspectors.

Our members were appreciative of DEC's week-long inspection initiative in Region 8 during July 2015 which served as a training opportunity for inspectors and elevated CAFO compliance and education within the producer community. It is our hope that inspectors left with a greater operational familiarity of our dairy farms from this hands-on training. It has been our experience that many inspectors are not familiar with the day-to-day operations of the farm or the necessary biosecurity protocols when visiting a farm with livestock. We feel this focused inspection effort was a positive way to improve interactions between inspector and farmer.

STATE BUDGET SUPPORT

For our family farm members, agricultural environmental funding must go hand in hand with the CAFO policy changes to be implemented in this new permit cycle. The new permit elements that have been introduced require a wide range of time, staff and financial investment by the farm. Some elements require daily operational changes or a one-time major capital investment for structural changes – but they will all be costly. With new CAFO permit elements like WWSOPs and a renewed focus on manure storages, farm need for state funding for cost-sharing and related state-funded programs has never been stronger.

NYFB strongly supports the Environmental Protection Fund that champions the partnership between agriculture and the environment by funding farm environmental programs. Programs such as Soil and Water Conservation District services, Agricultural Nonpoint Source Abatement Program, and Agricultural Waste Management Program are not just critically important to environmental protection but, in many cases, drive farm profitability.

In particular, Agricultural Nonpoint Source (AgNPS) funding has been an important source of state investment for CAFO improvements as demonstrated by farm need consistently outpacing Ag NPS funding levels. NYFB is grateful that the Agricultural Nonpoint Source Pollution Abatement Program received \$14.2 million in last year's State Budget and is currently slated to receive \$19 million in the 2016-17 Executive Budget proposal. Our members are very pleased the Governor recognizes that funding for this program is critical as our livestock industry is operating at a pivotal time, as we look to make dairy farmers even more environmentally sustainable.

NYFB also strongly supports continued reimbursement funding for County Soil and Water Conservation Districts. The Conservation Districts serve as the front line technicians for farm projects including CAFO, AEM and stream bank restoration projects. Their local technical assistance and engaging approach inevitably gains farmer support and long-term commitment to quality environmental protection.

Successful sustainable environmental agriculture cannot exist without the foundation provided by local Land Grant University research that is state and region-specific and can best define risk assessment tools, BMPs and other sustainable farm activities. For this reason, NYFB is grateful for the engagement of Cornell University and the PRO-DAIRY program in helping ensure the science-based foundations for New York's CAFO and AEM programs. We strongly support continued state support and funding for the PRO-DAIRY program.

PLANNER QA/QC PROGRAM

The success of this CAFO program is heavily weighted by the relationship between farmer and planner and hinges on the development of a farm-specific, environmentally meaningful and financially sustainable CNMP.

The value and importance of a properly designed and executed CNMP to the environment, farm health and public health was made evident with the multiple discharge incidents occurring in early 2014. To ensure that farm CNMPs are highly effective tools to prevent any type of discharge, it is critical that the limited pool of certified planners available to New York farmers all perform to the same high standard with consistency and uniformity in diagnostic methodology and compliance interpretation.

These holistic farm/livestock environmental plans are a critical assessment tool for farmers and have elevated environmental stewardship on the farm, but only with great farmer investment. The complexity of a CNMP and its demands on time and staff resources to properly execute and manage it leaves the farmer no choice but to employ the expertise of a planner and other agricultural consultants.

NYFB applauds the State Legislature for reinstating and funding the Quality Assurance/Quality Control Program for certified nutrient management planners conducted by NYS DAM with \$250,000 in program funding in the 2015-16 State Budget. NYFB is actively working to have this budget line restored in the final 2016-17 State Budget. This program deters water quality impacts and bolsters conservation and environmental health on the farm by giving farmers across the state the most effective, reliable and proactive conservation tool for their specific farm site.

While not a permit element, this program is an important contributor to achieving the CAFO program's statutory goal of improving and protecting the waters of the State. NYFB respectfully requests DEC and NYSDAM support and assist the Planner QA/QC Program through funding, staffing and other resources to ensure its success and availability to the planner and farm community.

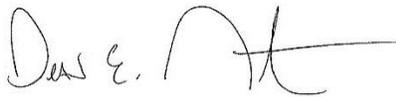
ELECTRONIC REPORTING BY PERMITEES

Electronic reporting has been raised in CAFO discussions with a focus on capturing statewide farm data electronically and improving data accuracy of submissions. NYFB understands DEC's interest in doing this to drive agency insights into changing best management practices, optimize compliance monitoring and accountability and, if possible, make predictive analysis on water quality outcomes based on on-farm activities. Our farmer-members recognize the value of using data to create this kind of clarity around decision-making. For example, our farmers are increasingly using precision agriculture tools to make farming more sustainable and efficient while yielding a better quality product. Intake records from computer feeders for group-housed calves aid in animal monitoring and facilitate disease detection. Farmers make meaningful use of their feed ration and milk productivity data to make better, more informed decisions for individual cow health and overall herd health.

NYFB strongly supports electronic reporting by CAFO permittees if the farmer chooses to do so and has the technology to utilize this tool. Our members still have serious concerns and reservations about any initiative that effectively requires permittees to file electronically without any other recourse. They also remain increasingly concerned over the security and confidentiality of their information as well as the cost associated with the practical aspects of compliance if the Department effectively compels electronic reporting. While computers and the Internet have become staples of modern working life, there is no broadband or reliable Internet service available to many of the rural and isolated communities that our farms call home. NYFB respectfully asks that the Department keep these comments in mind as it moves forward with its electronic reporting policies.

In closing, NYFB appreciates the opportunity to provide comments on the draft CAFO permits and for DEC's consideration of our recommendations. NYFB stands ready to work with DEC to help New York farms achieve financial and environmental sustainability. As always, please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean E. Norton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dean E. Norton
President