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[Via MiEnviro Portal and MaurerR1@michigan.gov](https://mienviro.michigan.gov/Enviro/Comment/Details/100060380)

Rebecca Maurer,
EGLE CAFO Permits Section, Water Resource Division

**Re: Comments Opposing KB Dairy, LLC- CAFO
CAFO Permit Application (Draft Permit MI0060380)**

To EGLE:

Socially Responsible Agriculture Project (“SRAP”) is a 501(c)(3) nonprofit organization incorporated in Delaware. For more than 20 years, SRAP has served as a mobilizing force to help communities protect themselves from the damages caused by industrial livestock operations, and to advocate for a food system built on regenerative practices, justice, democracy, and resilience. SRAP offers free support, providing communities with the knowledge and skills to protect their rights to clean air, water, and soil and to a healthy, just, and vibrant future. SRAP has staff in Michigan, and has long been concerned with the impacts of industrial animal agriculture on Michiganders. Flow Water Advocates (“Flow”), is a Michigan nonprofit organization working to protect the waters of the Great Lakes basin, submits these comments on behalf of its thousands of members, including Gratiot County residents.

SRAP and Flow previously submitted comments opposing the KB Dairy individual permit application submitted on October 18, 2025 (“Flow 2025 Comments”), and we incorporate those comments here. In EGLE’s Responsiveness Summary (November 26, 2025), EGLE took the position that it “must issue a permit if the permit application meets applicable regulatory requirements.” It is clear that KB Dairy does not meet the applicable regulatory requirements, and that EGLE must deny KB Dairy’s application. The KB Dairy permit review process has also highlighted EGLE’s laissez-faire approach to De Saegher Dairy’s long-expired CAFO General Permit and need for both facilities to obtain a Part 31 Groundwater Permit.

Should EGLE decide to continue to review the KB Dairy’s application, EGLE must require KB Dairy *and* the De Saegher Dairy to be treated as one facility under common ownership, and apply for and obtain (1) an individual NPDES CAFO permit to cover both facilities, and (2) a Part 31 groundwater permit to cover both facilities.

I. EGLE's Permit Review Process - Timing Concerns for Intertwined Dairies.

We have timing concerns related to EGLE's review process of the KB Dairy individual permit application, and EGLE's long-overdue review of the De Saegher Dairy's 2019 Groundwater Permit application and De Saegher's NPDES CAFO permit. In the interests of efficiency, effective permitting, and environmental realities of multiple dairy operations, commingled waste, and 4-5 digesters on the same site, EGLE should simultaneously address these permits together.

KB Dairy submitted its application for an individual permit on January 28, 2025. It appears that De Saegher Dairy, located at the same address and whose infrastructure will be part of KB Dairy's operations, is still operating under an administratively extended 2012 or 2015 Michigan CAFO General Permit.¹ This is a problem because numerous changes have occurred at the De Saegher Dairy in the intervening years, which are not adequately managed or monitored by the outdated CAFO General Permit. MiWaters confirms that De Saegher and EGLE have exchanged some communications and records for "major modification" requests to De Saegher's CAFO General Permit. However, it does not appear that EGLE has changed any terms and conditions of De Saegher's CAFO General Permit, nor has the CNMP been updated to reflect and incorporate actual information from the digesters that have been operational for more than two years, nor has EGLE proceeded with a Groundwater Permit for De Saegher. SRAP submitted a public records request but has not yet received responsive records.

Due to 2020 CAFO General Permit litigation, the 2015 CAFO General Permit has been administratively extended. Under EGLE's 2025 decisions,² CAFOs were finally due to apply for coverage under the new CAFO General Permit MIG010000. However, Farm Bureau et al.'s further appeals have likely further delayed 2020 CAFO General Permit implementation by years.

De Saegher Dairy's CAFO General Permit is well overdue for an update. We suggest that instead of inefficiently fracturing the agency's resources, management, and oversight into multiple and different permit frameworks, EGLE should address the De Saegher and KB Dairies simultaneously to allow for integrated terms, conditions, monitoring, and enforcement of these related facilities. EGLE should use the information acquired through the Groundwater Permit review process for these facilities to inform, design, and control the terms and conditions of an NPDES individual permit for these facilities.

II. De Saegher Dairy and KB Dairy both must apply for and receive a Groundwater Permit.

Michigan's Natural Resources and Environmental Protection Act ("NREPA"), MCL 324.101 et seq., and groundwater quality regulations require permits for discharges to groundwater, or an applicable exemption, and set discharge standards. Mich. Admin. Code 323.2204, 323.2205(1) ("a person shall not discharge without an authorization."), MCL 323.2222. CAFOs are only exempt from the groundwater permit requirement if Mich. Admin.

¹ See De Saegher Dairy Discharge Management Plan p. 1 (Oct. 17, 2025) (referencing 2012 Surface Water Discharge Permit MIG010097); MiEnviro file with a 2017 Certificate of Coverage under the 2015 General Permit.

² See EGLE's January 13, 2025 Final Decision and Order and EGLE Director Roos' October 29, 2025 Opinion.

Code 323.2210(f) applies. When a groundwater permit is required, the permit application triggers the CAFO's duty to prepare and submit additional analysis and documentation to EGLE. See Mich. Admin. Code 323.2206, 323.2218; Flow 2025 Comments p. 7-9. The groundwater permit rules broadly define pollution, and are designed to protect uses and interests related to groundwater quality. Mich. Admin. Code 323.2202(m) ("[p]ollutant" means any substance that may adversely affect a protected use of waters of the state"); 323.2202(n) (protecting public health, safety and welfare; domestic, commercial, industrial, agricultural, recreational, and other uses; value or utility of riparian lands; livestock, wild animals, birds, fish, and aquatic life or plants or the growth or propagation of, and the value in, livestock, wild animals, birds, fish, and aquatic life or plants). Several factors here support a Groundwater Permit (not simply a modified CAFO General Permit) for both KB Dairy and De Saegher Dairy.

A. Animal numbers are well in excess of the regulatory threshold.

Facilities with more than 5,000 animal units need Groundwater Permits. Mich. Admin. Code 323.2210. De Saegher Dairy has approximately 8,400 total animals (3,400 mature dairy cows, 3,000 calves, and 2,000 heifers); when combined with the proposed KB Dairy's 3,450 cows, the West Buchanan Road location will have 11,850 cows - or at least 6,850 mature dairy cows so nearly two times over the 5,000 animal unit limit. Yet, both facilities individually claim to conveniently be "just under" the Groundwater Permit threshold. Here, the combined animal numbers are well above a Mich. Admin. Code 323.2210(f) exemption threshold. De Saegher Dairy did apply for a Groundwater Permit in 2019 - where it proposes to reach 10,000 animals by 2024-2025.³ This could mean the number of animals on site is contemplated to reach 13,450. Additionally, EGLE should consider whether waste entering the De Saegher Dairy system from other De Saegher entities, such as EB Ridge Dairy (3,450 animals), and Milk Star Dairy (listed as MilkStar LLC-CAFO in MiEnviro) (3,450 animals) should be counted towards the groundwater impacts of animals and animal waste here.

B. Common ownership and common waste disposal system.

Similar to the NPDES CAFO permit criteria, Michigan's Groundwater Permit rule accounts for common ownership, adjacent facilities, or facilities, which use a common area or system for the disposal of wastes for determining animal numbers. Mich. Admin. Code 323.2210(f). We incorporate § III.A. and III.C below (discussing "adjacent" and "common ownership" and the NPDES CAFO permit) here, as the facts are similar.

Additionally, practices used by De Saegher Dairy, and which KB Dairy proposes to use, are indicative of a common system to dispose of waste. More detail is provided in § III.B., below, discussing the NPDES CAFO permit, and is incorporated here. Facts particularly important to highlight for the Groundwater Permit include, for example:

- **Common site and soil vulnerabilities**
 - The De Daegher Dairy and KB Dairy production area, and surrounding acreage, is located on soils with a USDA NRCS "very limited" rating, and

³ See De Saegher Dairy Groundwater Permit Application, p. 6 (Oct. 29, 2019).

- with very shallow depth to groundwater. The area of the digesters is rated 0 cm to groundwater by USDA NRCS. See **Exhibit 1** and excerpt below.
- De Saegher Dairy irrigates waste onto fields that may have similar ratings. See, e.g., Oct. 17, 2025 Discharge Management Plan p. 1 (two center pivot spray irrigation rigs on 70 wetted acres on Field D23⁴ apply an average of 10 million gallons of wastewater annually or 950,000 gallons per application “as needed throughout the growing season.”).
 - In 2021, EGLE conducted a hydrogeologic summary of De Saegher Dairy and recommended a sampling and analysis plan, a schedule of compliance, and further investigation of three farms that would receive De Saegher waste. **EGLE found areas of higher permeability and recommended the “installation of soil borings to determine the on-site geology, and for the installation of monitoring wells to collect and analyze groundwater samples to determine any potential impacts to the groundwater from the manure application. These three farms were chosen for the site hydrogeological setting, and the potential vulnerability of the surficial unconfined aquifer.”**⁵ (emphasis added).
 - Additionally, EGLE’s Hydrogeologic Summary for the De Saegher Dairy indicates that groundwater tends to flow north in this region; meaning that it could flow to the KB Dairy itself. With additional inputs to groundwater from KB Dairy, this site requires a Groundwater Permit.

- **Common waste disposal system, including commingling of waste**

- Here, diagrams show waste being piped from KB Dairy lagoon, to the De Saegher digester, and then back to KB Dairy lagoon.⁶
- Other De Saegher CAFOs use De Saegher’s waste system by manifesting waste to the De Saegher Dairy, including EB Dairy and Milk Star Dairy.⁷
- De Saegher Dairy 2024 CNMP, p. 1 and Milk Star documents show Milk Star and EB Ridge waste going to the De Saegher Energy digester. If these entities truly are separate, then this activity is contrary to EGLE’s 2023 General Administrative Consent Order for digesters owned by a separate entity applies. If the digester is indeed a separate entity from the De Saegher Dairy and the KB Dairy (and Milk Star Dairy and EB Dairy), then EGLE’s 2023 General Administrative Consent Order for digesters owned by a separate entity applies. The ACO prohibits a digester from accepting waste from other CAFO facilities.
- The common waste disposal problems here extend beyond the digester. Four dairies inputting waste into the De Saegher digester increases the waste entering the De Saegher Dairy storage system, digester, land

⁴ Also called “D23 Across Road (6 Tower)” and “D23 6 Tower (DeSaegher South).” Emails between EGLE and Blue Wing Consulting, LLC (Nov. 8-12, 2024).

⁵ EGLE, Groundwater Discharge Permit Unit, De Saegher Dairy, Hydrogeologic Summary p. 4, 18 (June 1, 2021).

⁶ See De Saegher 2024 Anaerobic Digester Treatment System, p. 2

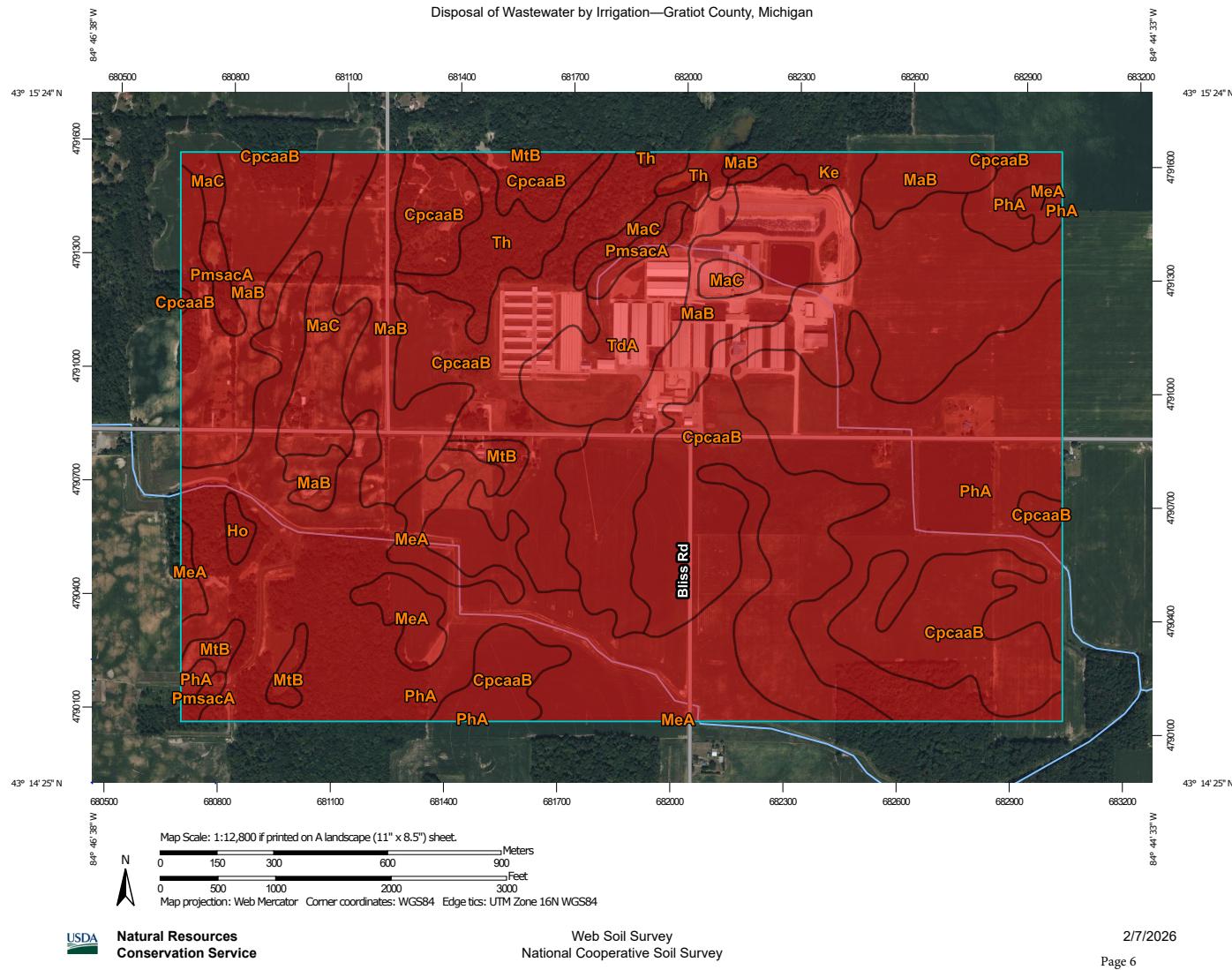
⁷ See, e.g., “De Saegher Manure Flow 042422” (Milk Star Dairy Manure Transfer In); see EGLE Administrative Consent Order against Milk Star, LLC to Barthel De Saegher, “Owner” (March 30, 2022); ACO Termination Request signed by “Bart De Saegher, Member” (May 15, 2024); Wastewater Discharge Permit Application signed by Bart De Saegher Producer and identifying as Owner (Aug. 19, 2014).

application and irrigation system, and manifested waste system. This thereby increases the number of facilities and dairy cattle contributing to the waste impacts at the De Saegher Dairy and KB Dairy site and fields, which the Hydrogeologic Summary already identified as a vulnerable groundwater location. Irrigation of waste, and of digestate waste, is of great concern in areas of groundwater vulnerability.

- If the land applied and manifested waste is commingled waste from multiple dairies, such as KB Dairy, EB Dairy, and Milk Star Dairy,⁸ it is of increased risk to groundwater. De Saegher's 2024 Anaerobic Digester Treatment System document suggests this is already occurring. Without requiring stronger sampling and monitoring of waste inputs, waste nutrient changes throughout the digestion process, and waste applied to fields, EGLE is missing critical opportunities to track waste and prevent further groundwater pollution.
- Commingled waste is essentially a *per se* activity indicative of common ownership. *See* EPA Permit Writers' Manual, 2.2.6. If KB Dairy truly is a separate entity, as KB Dairy argues, then it is illegal for KB Dairy to commingle its waste with waste not generated on-site. This would include De Saegher Dairy, EB Dairy, and Milk Star Dairy waste (1) in the digester and then (2) back into KB Dairy's waste storage structure.

⁸ We note that a Jan. 16, 2025 EGLE inspection of Milk Star Dairy noted that the CNMP and site maps needed to be updated, and that there had been significant change since the last CNMP update. If this has not been done, it should be as part of the KB Dairy and De Saegher Dairy permit reviews so that EGLE can confirm De Saegher entities are not manifesting waste to themselves. See MiEnviro Source No. E-35619.

Exhibit 1 (excerpt)
USDA NRCS Web Soil Survey - KB Dairy and De Saegher Dairy Site



Given the impacts of this site, flirting with a regulatory loophole that just looks at animal numbers should not be rewarded by exempting both KB Dairy and De Saegher Dairy from the Groundwater Permit framework. Public records confirm there are vulnerabilities at the site and monitoring is recommended by EGLE's own Hydrogeologic Summary. Public records also suggest EGLE has been dragging its feet and even actively avoiding addressing De Saegher Dairy groundwater pollution problem for years. EGLE's own regulatory guidance gives facilities with Groundwater Permits and NPDES permits two options - either they do not manifest any waste, or they manifest waste with a groundwater discharge permit or are authorized to discharge to surface waters via an NPDES permit. See EGLE, Part 22 Rule Compliance (May 2022). De Saegher applied for a groundwater permit in 2019, but EGLE is apparently only suggesting to modify De Saegher's NPDES CAFO General Permit. While EGLE may be "undertaking"⁹ modifications to De Saegher Dairy's NPDES CAFO General Permit to address some groundwater concerns, we believe the outcome of those long drawn out efforts will be insufficient to stop and mitigate pollution that is already occurring. The KB Dairy and De Saegher Dairy are under common ownership, and must be permitted together. EGLE should conduct the Groundwater Permit analyses before the NPDES permit process, so that the terms and conditions of an NPDES permit (such as pollution controls and monitoring) can be designed to incorporate necessary groundwater protections.

III. KB Dairy and DeSaeger Dairy, and other De Saegher entities, are related and must be permitted together for NPDES permit purposes.

Flow's 2025 Comments already addressed some of the De Saegher dynasty labyrinth. This includes the legal fiction of several corporate entities that would be illegal and illogical for EGLE to ignore in the current KB Dairy and De Saegher Dairy permitting reviews. See Flow 2025 Comments, p. 5-7.

For NPDES CAFO permitting, "Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes." Mich. Admin. Code 323.2102(i); EPA CAFO regulation 40 C.F.R. § 122.23(b)(2). Our assessment of the KB Dairy and De Saegher entities' situation is, in essence, that they are trying to "have their cake and eat it too." Sometimes the De Saeghers approach transactions or activities together, and sometimes they use a paper veil to give the illusion of separateness. In the interest of fairness, and in light of the regulatory structures, the KB Dairy and De Saegher Dairy are under common ownership and must be permitted together.

A. Facilities are clearly adjacent.

Flow 2025 Comments already addressed this criteria and how it is satisfied, and included Google Earth map showing that the facilities are physically adjacent to each other, and use the same address. See Flow 2025 Comments p. 5-6 ("KB CAFO is not only adjacent but fully contiguous with the existing De Saegher CAFO, which houses up to 3,400 dairy cows, according to its permit documents, and thousands of non-milking cattle, well over the 5,000 animal limit.

⁹ In the Feb. 3, 2026 public hearing, EGLE described its efforts regarding the De Saegher Dairy permit as work it was "undertaking."

Recent 2025 aerial images show a single, massive operation constructed essentially in a wetland. The disturbed ground outlined in red on the right, with one waste pit already constructed and a direct waste channel to the shared digesters at the bottom of the photo, is the proposed “separate” KB CAFO site.”). The KB Dairy and De Saegher Dairy are only a few feet apart and they are clearly “adjacent” to each other.

B. Facilities clearly use several common areas or systems for the disposal of wastes.

The KB Dairy permit application shows that the De Saegher Dairy and KB Dairy will use a common area. See Flow 2025 Comments p. 5-6. Both dairies will be using some common areas or systems for the disposal of waste, which likely includes commingling of waste from KB Dairy, De Saegher Dairy, EB Ridge Dairy, and Milk Star Dairy. Cmingled waste is essentially a *per se* activity indicative of common ownership. *See* EPA Permit Writers’ Manual, 2.2.6. While we urge EGLE to conduct its own analysis some examples include:

- **Roads**
 - Common roads for access, use, ingress, and egress between the facilities’ production area, and infrastructure including digesters.
- **Waste Storage**
 - KB Dairy proposes using the “satellite pit”, which appears to also be the same “satellite pit” listed in the De Saegher CNMP (2019) at p. 6, 18.
 - KB Dairy will re-pipe waste from the De Saegher digester back to a KB Dairy lagoon, likely including commingled waste from De Saegher, EB Ridge Dairy, and Milk Star Dairy.
- **Use of Digester**
 - KB Dairy proposes constructing a buried pipe to convey waste from the KB Dairy barn and sand separation barn to the De Saegher digester, and then another buried pipe to convey the digestate waste back to the KB Dairy 500’x300’ manure storage structure from the digester. See KB Dairy Proposed Layout, p. 2.
 - EB Ridge Dairy and Milk Star Dairy will be using the digester as well.
- **Commingled Waste in the Digestion Process**
 - If 100% of KB Dairy’s waste will be digestate, it is likely that it will be commingled during at least some digestion processes with De Saegher Dairy waste, and commingled with EB Ridge and Milk Star Dairy waste.
- **Manifesting, land applications**
 - KB Dairy proposes to manifest all of its waste, and identifies the recipients only as “Brian Smith, Jeremy Humphrey, Ben Chaffin, and Josh Melvin.” KB Dairy Application p. 7.
 - As we point out elsewhere in these comments, De Saegher owned entities such as Milk Star Dairy which already manifest waste to the De Saegher Dairy.

- While Milk Star documents indicate it does manifest waste, we did not identify Manifest Forms or information confirming where Milk Star's waste is manifested to, or land applied, in the MiEnviro portal. We ask EGLE to conduct the necessary due diligence to ensure fields are not being used by more than one entity, and that no De Saegher entity is manifesting waste to itself. There does not appear to be any safeguards to prevent this from happening to KB Dairy waste.

Other questions remain regarding the KB Dairy and De Saegher Dairy common system issue. For example, where will KB Dairy be obtaining its cows from? What wells will it be obtaining water from? Other questions, such as potential interconnected operation, management, financial transactions, etc., may also demonstrate further common systems.

C. Ownership

There are numerous problems with EGLE's continued approach to the common ownership issue here, which ignore federal and state legal and evidentiary standards. Flow, SRAP, and other community members have provided significant and different kinds of information showing the connections between KB Dairy and De Saegher Dairy - and other De Saegher entities - yet EGLE continues to discount this information. For example, Flow 2025 Comments presented information to EGLE in October that Bart De Saegher has taken out at least two mortgages on behalf of KB Dairy, thus incurring debt and liability on behalf of KB Dairy. See Flow 2025 Comments p. 6. Taking out a mortgage for KB Dairy is not something Bart De Saegher would legally be allowed to do without having control or direction of the KB Dairy entity and its operations. Despite this and other information, EGLE has still refused to acknowledge the relationship between the De Saegher entities and KB Dairy, or to do any additional due diligence. In fact, EGLE simply decided that an email from KB Dairy itself and superficial information on Michigan's business registry portal is sufficient to conclude that KB Dairy and De Saegher Dairy are not under common ownership. How an entity registers with LARA - which is solely for notice and service-of-process purposes and is not a determination of ownership - does not limit, supersede, or replace any additional liabilities the entity, its members, and any related entities.

(1) Common ownership relates to much more than just animal numbers.

While federal and state regulations identify the ownership issue "for the purpose of determining the number of animals", determining ownership is significantly more than a simple numbers game to check a box on a worksheet for the sake of identifying large, medium, or small CAFO size. Ownership relates directly to rights, responsibilities, and liabilities under the law - and the permits to conduct certain activities. Determining ownership is a factual, case-by-case specific analysis that requires significantly more information than EGLE used here. EGLE relied on an email from a permit applicant, and a state registry.¹⁰ Moreover, EGLE *knows* the practice

¹⁰ Here, EGLE relied on basic information required by the Michigan Corporations Division Licensing and Regulatory Affairs (LARA) and an email from the applicant. LARA information is collected simply for registering, renewing, and providing a resident agent's contact information and relates only to how the state, or anyone, may

of creating multiple entities is a problem for enforcement, because it asserted that position in the General Permit litigation. *See, e.g.*, ELGE Director’s Opinion p. 8 (Oct. 29, 2025) (discussing “operational control” and manifesting). The ownership question relates to what persons or entities operate, manage, or control a facility, are involved in big picture or day-to-day decision-making, have roles or impact on compliance, finances, staffing, training, recordkeeping, monitoring, or reporting, and ultimately who may have full or partial liability for violations of the law. EGLE must do more due diligence on the ownership issue here.

The legal standard for the ownership issue for the NPDES CAFO permit requirement is worded slightly differently from the Michigan groundwater permit requirement, but either way, KB Dairy and De Saegher Dairy satisfy the common ownership analysis and must be permitted together for NPDES CAFO permits and state groundwater permits. The EPA NPDES CAFO Permit Writers Manual¹¹ is informative here to EGLE’s analysis. It suggests that the regulation factors *are not the only ones that should be considered* in a common ownership analysis.

2.2.6. Operations under Common Ownership

Under the CAFO regulations, two or more AFOs under common ownership are considered one operation if, among other things, they adjoin each other (including facilities that are separated only by a right-of-way or a public road) or if they use a common area or system for managing wastes. 40 CFR § 122.23(b)(2). For example, operations generally meet the criterion where manure, litter, or process wastewater are commingled (e.g., stored in the same pond, lagoon, or pile) or are applied to the same cropland. In determining whether two or more AFOs are under common ownership, the number of managers is not important. Two AFOs could be managed by different people but have a common owner (e.g., the same family or business entity owns both). For facilities under common ownership that either adjoin each other or use a common area or system for waste disposal, the cumulative number of animals confined is used to determine if the combined operation is a Large CAFO and is used in conjunction with the discharge criteria in Section 2.2.5 to determine if the combined operation is a Medium CAFO.

(emphasis added).

Additionally, EPA’s Producers’ Compliance Guide for CAFOs further demonstrates that the “common ownership” approach should be viewed more broadly than EGLE’s current position. EPA’s Producers’ Compliance Guide states:

contact a Michigan business. The information LARA requires for this purpose is different and distinct than what other laws, including environmental laws, look to in order to determine rights, duties, and liabilities.

¹¹ https://www.epa.gov/sites/default/files/2015-10/documents/cafo_permitmanual_entire.pdf

If you own two or more AFOs that

- Are next to each other **or**
- Use a common waste disposal area or system,

you should count all the animals at all the operations together to determine whether your operations fall within the thresholds for the CAFO size categories. If both of your operations use a common waste disposal area or system, they are counted as one even if they're not next to each other. (Two operations under common ownership are considered to have a common waste disposal system if the manure, litter, or process wastewater from the two operations is mixed before disposal or land application or if the manure, litter, or process wastewater from the two operations is applied to the same land application area. Common waste disposal systems also include any other type of system where the wastes from two operations are commingled for handling or disposal.)

Also, if an operation is entirely located on one site but ownership of the operation is split between two or more people, you should still count all the animals at that operation to know if it falls within the thresholds for the CAFO size categories.

Excerpted from EPA Producers' Compliance Guide, (EPA 821-R-03-010) p. 9

(Nov. 2003) (see excerpt at **Exhibit 2**), document available in full at

<https://www.epa.gov/sites/default/files/2015-06/documents/compliance-cafos.pdf>

(emphasis original)

There is little federal or state case law interpreting the common ownership factor of 40 C.F.R. 122.23(b)(2), Mich. Admin. Code 323.2102, or Mich. Admin. Code 323.2210(f); *see also* EGLE Director's Opinion p. 8 (Oct. 29, 2025) (discussing "operational control" and manifesting). However, Flow already outlined situations where Michigan courts have repeatedly ignored the legal fiction of entities to avoid permitting obligations. See Flow 2025 Comments p. 6-7. There is a strong public policy behind permitting, and subsequent liability for environmental injustices, that corporate forms should not be used to shield those ultimately responsible. By ignoring critical ownership analyses here, EGLE is enabling KB Dairy, De Saegher Dairy, and

related De Saegher entities to skirt the law by allowing them to avoid environmental responsibilities and potential liabilities purely of De Saegher's own creation.

While the concept of common ownership is fact specific, other states have added rules to guide the scope of understanding what "common ownership" means for CAFO permitting purposes. For example:

- **Iowa** - Iowa DNR looks at owner and manager names, percentage ownership, who has decision-making on day-to-day, animal care, veterinary, maintenance decisions, who pays bills, who conducts manure application and removal activities, and who has signatory authority. Iowa also includes truck wash facilities as part of the state's common ownership analysis. See **Exhibit 3-1** (Iowa DNR due diligence letter to swine operators constructing facilities adjacent to each other (September 15, 2022)); 567 IAC 65.1.
- **Ohio** - Since at least 2015, Ohio has required identification and contact information for owners and operators of corporations, LLCs and LLPs, and information relating to the business ownership percentages. See Ohio Rev. Code 903.02(C)(1), 903.03(C); Ohio Admin. Code Ann. 901:10 et seq.

An excerpt of the Ohio regulations is copied below:

- (1) Owner means the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility or holds or is able to control, either directly or through a holding company or subsidiary, by means of any of the following:

(a) The person holds at least twenty-five per cent of the equity of the facility which is a business concern that is a publicly traded corporation; or

(b) The person is any other business concern not covered in paragraph (NNN)(1)(a) of this rule and holds at least fifty per cent of the equity of the facility; or

(c) The person has provided a loan to the facility with provisions for the right to control management of the facility or actual control of the facility or the selection of officers, directors, or managers of the facility.

(2) Types of ownership may include the any of the following:

(a) "Business concern" means any corporation, association, firm, partnership, trust, or other form of commercial organization.

(i) "Sole proprietorship" means a form of business concern, other than a partnership or corporation, in which one person owns all the

assets and is solely liable for all the debts of the business. Sole proprietor includes any individual or entity in which an individual is an applicant or permittee or prospective owner.

(ii) "Partner" means a business concern where any person holding a position as, or similar to, a general partner, as defined in division (E) of section 1782.01 of the Revised Code, or a limited partner, as defined in division (F) of section 1782.01 of the Revised Code, or persons who share profits and liability and have management powers of a partnership, as partnership is defined in section 1775.05 of the Revised Code.

(iii) "Publicly traded corporation" means a business concern that is a corporation:

(a) Whose shares are listed on a national securities exchange; or
(b) Whose shares are regularly quoted in an over-the-counter market by one or more members of a national; or affiliated securities association; or
(c) With fifty or more shareholders.

(b) "Equity" means any ownership interest in a business concern, including sole proprietorship, the shares of a partner, and stock in a corporation.

(c) "Loans" means notes, mortgages, or financial loans of any kind, secured or unsecured, unless held by a chartered lending institution.

(3) "Operator" means the person responsible for the direct control or overall operations of a facility, and whose duties or responsibilities involve, in whole or part, the management of the facility and the exercise of independent or discretionary judgment. An operator may include the person who has the right to control or in fact controls management of the facility or the selection of officers, directors, or managers of the facility.

Ohio Admin. Code Ann. 901:10-1-01(NNN)(1)-(3).

The information above is the baseline; Ohio regulations allow for deeper inquiries. See, e.g., Ohio Admin. Code Ann. 901:10-1-02(3), 901:10-2-01(C). See also **Exhibit 3-2** (Ohio Form DLEP-3900-001b which requires identification and contact information "officers, directors, partners, members, or others that have a right to control or in fact control management of the business entity or the selection of officers, directors or managers of the business entity.").

- Wisconsin - Wisconsin looks at additional components of a facility, including equipment, and how it relates to determining whether two or more operations are under common ownership or common management. See Wis. NR 243.03(4).

An excerpt of the Wisconsin regulations are copied below.

"Animal feeding operation" means a lot or facility, other than a pasture or grazing area, where animals have been, are or will be stabled or confined, and will be fed or maintained for a total of 45 days or more in any 12-month period. Two or more animal feeding operations under common ownership or common management are a single operation if at least one of the following is true:

- (a) The operations are adjacent.
- (b) The operations utilize common systems for the landspreading of manure or other wastes, including a nutrient management plan or landspreading acreage.

Note: While it is not the sole factor used to determine whether operations have a common system for lands-spreading, use of common land application *equipment* is one of the factors the department considers when determining if operations have a common system for landspreading.

- (c) Manure, barnyard runoff or other wastes are commingled in a common storage facility prior to landspreading.

(italics added)

Wis. NR 243.03(4).

We can provide EGLE with more examples and are available to further discuss this point with EGLE. For these comments, though, the main point to emphasize to EGLE is that looking beyond an email from the permit applicant, and the LARA registration information, is absolutely critical and eminently reasonable in order for EGLE to properly assess the common ownership question here for the KB Dairy and De Saegher Dairy.

(2) Information already available supports a common ownership finding; at a minimum, EGLE must conduct additional due diligence.

Flow 2025 Comments have already provided EGLE with information to support a common ownership conclusion here. Since the October 18, 2025 Comments, we have identified additional information. The information available indicates that the KB Dairy, De Saegher Dairy, and several other De Saegher entities are interrelated, and the common sense notion of an industrial facility operates - whether it be a CAFO or any other manufacturing facility - is that they share common ownership interests. In addition to points raised above in these comments, we suggest the following categories and information are just part of where EGLE will find overlap if it conducts the necessary due diligence:

- **Corporate Structure**
 - Commonality between permit holders and applicants and their officers, members, directors, partners, persons, or others with a right of control or do control the KB Dairy, De Saegher Dairy, Milk Star Dairy, EB Ridge Dairy, De Saegher Energy, De Saegher Investments, and other entities. Having reviewed publicly available information, we believe the ownership and/or control of the De Saegher entities (see, e.g., **Exhibit 4**), including KB Dairy, likely have significant overlap. We urge EGLE to conduct due diligence on this point.
- **CAFO infrastructure ownership and use**
 - Digesters
 - Digesters themselves are owned by De Saegher Energy Services (Bart and Els De Saegher)
 - Digester road access and digester sand separator building
 - The sand separator building is located at the De Saegher Dairy, on De Saegher Energy Services owned land. The road access and sand separator building are owned by Milk Star. In 2022 Milk Star granted De Saegher Energy, LLC an easement to use it. See **Exhibit 5** (Gratiot Co. record, Nonexclusive Easement Agreement, March 1, 2022).
- **Federal funding** (e.g., USDA, SBA, and federal programs providing subsidies, grants, loans, and other financial benefits for the dairies and the digesters)
 - Searches for KB Dairy on www.usaspending.gov lead directly to De Saegher Dairy and De Saegher Energy entries.
- **Commingling waste and manifesting waste**
 - EGLE records show that EB Ridge Dairy, Milk Star, and De Saegher Dairy manifest waste to each other and commingle waste. We urge EGLE to conduct its own due diligence to confirm where and when De Saegher entities are manifesting waste to themselves.
- **Joint mortgage for construction funds**
 - Bart and Elisabeth De Saegher as manager of DeSaegher Investments, LLC and as trustee of his living trust and Elisabeth DeSaegher's living trust, took out a mortgage where KB Dairy is named as one of the borrowers. *They could not legally do this unless they have some ownership, control, or authority over the KB Dairy.* See Flow 2025 Comments p. 6 ("In a mortgage amendment recorded April 23, 2025 in Gratiot County, Barthel and Elisabeth De Saegher, acting through De Saegher Investments LLC, added DeSaegher Dairy, Inc.; DeSaegher Cattle, LLC; EB Ridge Dairy, LLC; and KB Dairy, LLC as borrowers on a mortgage from GreenStone Farm Credit Services, in exchange for construction funds."). **Exhibit 6**.

- **Real property ownership, leases, and easements**
 - KB Dairy
 - The real property where the KB Dairy is located was purchased by De Saegher Investments (2013) (Exhibit 7 pages 1-5), then leased to De Saegher Energy, LLC (2022) (Exhibit 7 pages 6-9) for no consideration, transferred to KB Dairy (2025) (Exhibit 7 pages 10-13), again for no consideration. **Exhibit 7**.
- **“Open end” “future advance mortgage” with no stated amount.**
 - Bart and Elisabeth De Saegher as managers of DeSaegher Investments, LLC and manager of E.B. Ridge Dairy, LLC took out an ‘open end’ “future advance mortgage” in favor of De Saegher Investments and E.B. Ridge Dairy, with “Borrowers” included “any person or persons delivering this Mortgage in favor of Lender, and DeSaegher Dairy, Inc., DeSaegher Cattle, LLC, KB Dairy , LLC, and De Saegher Energy, LLC.” See **Exhibit 8** at 1. *The De Saeghers could not legally do this unless they have some ownership, control, or authority over the KB Dairy.* See Flow 2025 Comments p. 6 (“[o]n April 16, 2025, in which Barthel and Elisabeth De Saegher, acting as signatories for De Saegher Investments and EB Ridge Dairy, LLC, committed De Saegher Dairy, Inc.; De Saegher Cattle, LLC; KB Dairy, LLC; and De Saegher Energy, LLC as borrowers.”).

At a minimum, all of the information already publicly available points to a *de facto* common ownership, or an ownership by estoppel situation. The information available indicates that the KB Dairy, De Saegher Dairy, and other De Saegher entities are interrelated, and the common sense notion of an industrial facility operates - whether it be a CAFO or any other manufacturing facility - is that they share common ownership interests. We urge EGLE to conduct its own due diligence.

IV. EGLE’s KB Dairy permit review has not considered De Saegher Dairy’s new natural gas pipeline, which is part of the KB Dairy and De Saegher Dairy infrastructure and runs across the KB Dairy production area.

Michigan Public Service Commission (PSC) Natural Gas Pipeline ARC GIS Mapping tools¹² show that Detroit Electric Gas Company (DTE) operates the natural gas pipeline running northeast near the De Saegher Dairy and the KB Dairy site. See screenshot image capture, below (Figure 1). De Saegher interests have long sought access to tap into the natural gas production market, for example, by creating its own energy company (De Saegher Energy RNG LLC and constructing and obtaining PSC authorization to build the DSG RNG Pipeline), and working with Quantalux and SKS Green to develop multiple digesters. In June 2025, De Saegher Energy RNG LLC filed its Completion Report with the PSC, thereby finishing a construction of a privately owned high pressure natural gas pipeline which connects the De Saegher Dairy, De Saegher Energy, and the KB Dairy anaerobic digesters to DTE’s pipeline.¹³ See **Exhibit 9**

¹² See PSC ARC GIS mapping tool available at <https://data-michiganpsc.hub.arcgis.com/pages/natural-gas>

¹³ The entire Completion Report and documents for PSC Docket U-21289-0014 are available at <https://mi-psc.my.site.com/s/filing/a00cs0000o071VAAQ/u212890014>

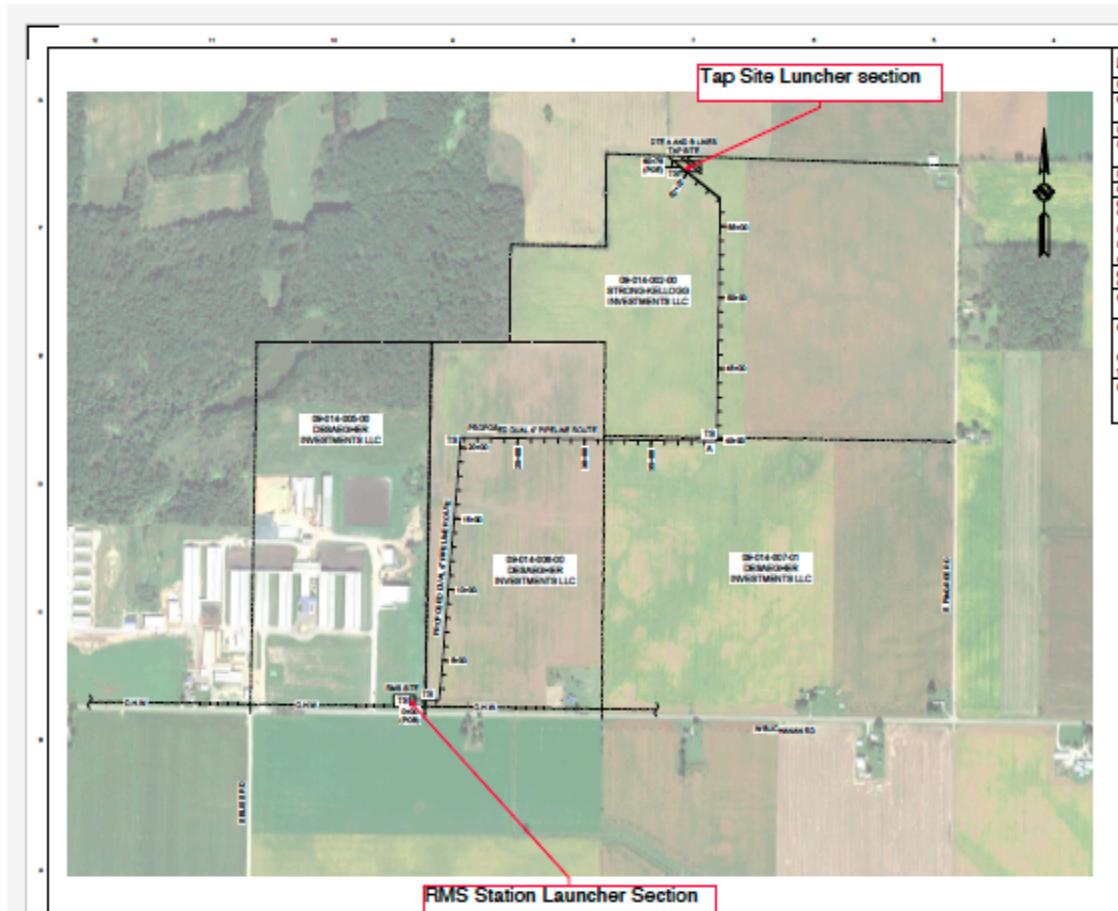
(excerpt), below. This De Saegher connector pipeline to DTE's pipeline goes right through the KB Dairy production area.

Figure 1 - Screenshot of Michigan PSC Map of DTE pipeline.
Orange line across the top right corner shows the DTE natural gas pipeline (**See Exhibit 9**)



Exhibit 9

Excerpt from De Saegher's Completion Report submitted to the Michigan PSC (June 27, 2025)
at p. 2 ("PIPELINE ROUTE/DESIGN & CONSTRUCTION DATA DUAL 4" De Saegher
PIPELINES De Saegher ENERGY PROJECT)



We have several concerns regarding De Saegher's connector natural gas pipeline, which EGLE should analyze. For example:

- Oversight, inspections, and monitoring of the pipeline especially as this site has significant potential for deleterious groundwater impacts. We note that recent reporting indicates that federal oversight of pipeline safety is down by over 50% in the Trump Administration's first year.¹⁴
- Detroit Energy setbacks for pipelines may be violated here. DTE sets encroachment zones of 200 yards or an otherwise designated Potential Impact Radius, which require certain kinds of maintenance for safety (e.g. clear of structures, clear of vegetation). Also, there are pipelines rights of way which determine the setback and no permanent, immovable structures should be built

¹⁴ See, e.g., E&E News, Politico "Pipeline safety enforcement cut in half in Trump's first year." (Jan. 15, 2026) <https://www.eenews.net/articles/pipeline-safety-enforcement-cut-in-half-in-trumps-first-year/>

- within this area. In reviewing the PSC information, the De Saegher and KB Dairy plans, we are concerned that the setbacks would not be met.¹⁵
- The scope of EGLE's 2023 ACO, the NPDES CAFO General Permit, and Groundwater Permits, and whether these frameworks adequately protect surface water, groundwater, human health, and natural resources from the risks of the connector pipeline.
 - NREPA, MEPA, and Michigan's Public trust doctrine and natural resource protections (incorporating points from Flow 2025 Comments, p. 16-18).

Lastly, we note that the images used for the 2025 PSC Completion Report are quite outdated - for example, they do not show the digesters constructed in 2022-2023 and they do not show the large De Saegher Dairy lagoon on the north side of the property. We also note that EGLE's Hydreogeologic Summary did not account for the De Saegher connector pipeline and risks associated with it. We urge EGLE, in its analysis of this issue, to ensure it has the most recent and complete information and to thoroughly vet the connector pipeline.

V. Conclusion

We urge EGLE to deny the KB Dairy application. Before any KB Dairy application can even be reviewed by EGLE, the De Saegher Dairy and KB Dairy groundwater analysis must be completed, the facilities permitted with a Groundwater Permit, and that information integrated into an individual NPDES permit.

Sincerely,

s/ Elisabeth Holmes

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Enc. Exhibits 1-9

¹⁵ See, e.g., <https://www.dteenergy.com/us/en/residential/emergency-and-safety/gas-safety/pipelines.html>