

**U.S. DEPARTMENT OF AGRICULTURE  
Farm Service Agency**

**DRAFT ENVIRONMENTAL ASSESSMENT**

***Sharptown Rd, Laurel, Delaware***  
**Sussex County, Delaware**

**Prepared By  
Colleen Reed, Farm Loan Specialist**

**April 12, 2018**

## COVER SHEET

|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Proposed Action:</b>      | The Farm Service Agency of the United States Department of Agriculture proposes to provide assistance for the construction of 4 60x500 ft. poultry houses and related infrastructure with a total farm maximum capacity of 160,000 birds as well as a mobile home and related infrastructure on a 17.3 acre tract located on Sharptown and Rider Roads, Laurel, Delaware.                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Type of Document:</b>     | This is a site-specific Environmental Assessment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Lead Agency:</b>          | United States Department of Agriculture, Farm Service Agency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Cooperating Agencies:</b> | None                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Further Information:</b>  | Sussex Co. FSA Office, 21315 Berlin Rd Unit 1, Georgetown, DE 19947, (302)856-3990, Ext. 2.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Comments:</b>             | <p>This Environmental Assessment (EA) was prepared in accordance with USDA FSA National Environmental Policy Act (NEPA) implementing procedures found in 7 CFR 799, as well as the NEPA of 1969 (40 CFR 1500-1508/42 US Code 4321-4347), as amended. A copy of the Draft EA can be found at the Sussex County FSA Office, 21315 Berlin Rd, Unit 1, Georgetown, DE 19947, and is posted to the FSA State website at:<br/><a href="https://www.fsa.usda.gov/state-offices/Delaware/index">https://www.fsa.usda.gov/state-offices/Delaware/index</a>.</p> <p>Written comments regarding this EA can be submitted to the address below until <b>May 19, 2018</b>:</p> <p>Farm Loan Program Manager<br/>Sussex County FSA Office<br/>21315 Berlin Rd Unit 1<br/>Georgetown, DE 19947</p> |

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### Acronyms and Abbreviations

|        |                                                                      |
|--------|----------------------------------------------------------------------|
| NEPA   | National Environmental Policy Act                                    |
| ACE    | Army Corp of Engineers                                               |
| APE    | Area of Potential Effect                                             |
| CAFO   | Concentrated Animal Feeding Operation                                |
| CERCLA | Comprehensive Environmental Response, Compensation and Liability Act |
| CNMP   | Concentrated Animal Feeding Operation                                |
| CZMA   | Coastal Zone Management Act                                          |
| DNREC  | Delaware Department Natural Resources and Environmental Control      |
| EA     | Environmental Assessment                                             |
| EIS    | Environmental Impact Statement                                       |
| EO     | Executive Order                                                      |
| EPA    | Environmental Protection Agency                                      |
| EPCRA  | Emergency Planning and Community Right to Know Act                   |
| EQ     | Environmental Quality                                                |
| FEMA   | Federal Emergency Management Agency                                  |
| FLP    | Farm Loan Programs                                                   |
| FP     | Farm Programs                                                        |
| FONSI  | Finding of No Significant Impact                                     |
| FSA    | Farm Service Agency                                                  |
| HEL    | Highly Erodible Land                                                 |
| HELC   | Highly Erodible Land Conservation                                    |
| NMFS   | National Marine Fisheries Service                                    |
| NOI    | Notice of Intent                                                     |
| NPDES  | National Pollution Discharge Elimination System                      |
| NPS    | National Park Service                                                |
| NRCS   | Natural Resource Conservation Service                                |
| NRI    | National River Inventory                                             |
| SEC    | State Environmental Coordinator                                      |
| SHPO   | State Historical Preservation Officer                                |
| THPO   | Tribal Historical Preservation Officer                               |
| USACE  | US Army Corps of Engineers                                           |
| USDA   | United States Department of Agriculture                              |
| USFWS  | US Fish and Wildlife Service                                         |
| WRS    | Wild and Scenic River System                                         |

## **1.0 INTRODUCTION**

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### **1.1 Background**

United States Department of Agriculture (USDA) Farm Service Agency (FSA) proposes to provide assistance for the construction of four 60x500 ft. poultry houses and related infrastructure with a total farm maximum capacity of 160,000 birds, and installation of a mobile home and infrastructure on a 17.3 acre tract located at the corner of Sharptown and Rider Roads, Laurel, Delaware. The property is further identified as being comprised of Sussex County Tax Map and Parcel numbers 5-32-1.00-1.00. The proposed construction area is currently cleared cropland. The proposed project site would be located 8 miles West from Laurel, Delaware. Appendices A and B contain maps and photos of the project area. A detailed description of the components of the proposed action, the project site and related surrounding area of potential effect is further described in Section 2.1 of this document.

This Environmental Assessment is being prepared to assess the potential environmental impacts of the proposed action in keeping with the provisions of the National Environmental Policy Act and to collect information, inform the public and solicit input to inform the related decision making process

### **1.2 Purpose and Need for the Proposed Action**

The purpose of the Proposed Action is to implement programs to make available economic opportunity to help rural America thrive and promote agriculture production that better nourishes Americans while also helping feed others throughout the world; as provided for by the Food and Security Act of 1985 as amended, the Consolidated Farm and Rural Development Act as amended and implementing regulations found in 7 CFR Parts 762 and 764.

The need for the Proposed Action is to fulfill FSA's responsibility to administer the Farm Loan Program by providing access to credit to help improve the stability and strength of the agricultural economy including to start, improve, expand, transition, market, and strengthen family farming and ranching operations and provide viable farming opportunities for family and beginning farmers and meet the needs of small and beginning farmers, women and minorities. Specifically, in the case of this request, FSA's need is to respond to the applicant's request for assistance to support the proposed action.

FSA Farm Loan Program Assistance is not available for commercial operations or facilities that are not family farms, or to those having the ability to qualify for commercial credit without the benefit of FSA assistance. The applicant(s) have been determined to be a family farm as defined by 7 CFR 761.2. The proposed action would allow them the opportunity to establish their family farming operation and provide the economic stability to meet the needs of the family.

In addition, livestock integrators have a demand for new facilities such as those proposed to provide an adequate supply for processing plants and keep them operating at an economically feasible capacity. Specialized livestock facilities such as those proposed, have a limited useful life as they become functionally obsolete as technology advances. Accordingly, a pipeline of new

facilities is necessary to insure an adequate and economical supply of low cost protein food for the nation.

## 1.3 Regulatory Compliance

Environmental Assessment is prepared to satisfy the requirements of NEPA (Public Law 91-190, 42 United States Code 4321 et seq.); its implementing regulations (40 CFR 1500-1508); and FSA implementing regulations, *Environmental Quality and Related Environmental Concerns – Compliance with the National Environmental Policy Act* (7 CFR 799). The intent of NEPA is to protect, restore, and enhance the human environment through well informed Federal decisions. A variety of laws, regulations, and Executive Orders (EO) apply to actions undertaken by Federal agencies and form the basis of the analysis.

The Farm Service Agency (FSA) USDA, is the lead Agency. The following agencies were contacted for input and assistance due to their technical skill, scientific expertise and / or related regulatory authorities or jurisdictional responsibilities: USDA Natural Resource Conservation Service---wetland determination/delineation of the property; Sussex County Conservation District---Comprehensive Nutrient Management Plan (CNMP), Sediment and Erosion Control Plan/Storm Water Prevention Plan (SWPPP); Delaware Natural Resource and Environmental Control (DNREC)---permitting process and Coastal Zone Management Program; Delaware Department of Agriculture's Nutrient Management Commission---Notice of Intent(NOI) for Delaware's NPDES project; Delaware Tribe of Indians---cultural resources; Delaware State Historic Preservation Office---historical and cultural resources.

The decision to be made by FSA based on this assessment is whether to:

- Approve the applicant's loan request;
- Approve the request with additional mitigations; or
- Deny the loan request.

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### 1.3.1 Right to Farm

All fifty states have enacted right-to-farm laws that seek to protect qualifying farmers and ranchers from nuisance lawsuits filed by individuals who move into a rural area where normal farming operations exist, and who later use nuisance actions to attempt to stop those ongoing operations. The Right to Farm law for Delaware can be found at Title 3 §1401 and Title 10 §8141(a) and can be summarized as:

*The Right to Farm Law in Delaware provides protections from nuisance actions against agricultural or forestall operations which have been in operation for a period of more than 1 year and that are in compliance with all applicable state and federal laws, regulations and permits, but shall not apply whenever a nuisance results from the failure to conduct the operations in a manner consistent with good agricultural practice or when there has been a significant change in the operation itself.*

## 1.4 Public Involvement and Consultation

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### 1.4.1 Public Involvement

A notice of the availability of the document was published in a local newspaper, **The Laurel Star on April 19, 2018 and April 26, 2018** and posted to the FSA State website at: <https://www.fsa.usda.gov/state-offices/Delaware/index>.

This document is available for public review and comment **from April 19, 2018 to May 19, 2018** at the Sussex County FSA Office, 21315 Berlin Rd Unit 1, Georgetown, DE 19947. It is also available for the same time period at the FSA State website at: <https://www.fsa.usda.gov/state-offices/Delaware/index>.

Written comments may be submitted to Sussex County FSA, Farm Loan Program, Sussex County FSA Office, 21315 Berlin Rd Unit 1, Georgetown, DE 19947 through **May 19, 2018** (*end of 30 calendar day comment period that begins with publication of newspaper April 19, 2018 notice*).

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### 1.4.2 Agency Consultation

USDA undertook the following efforts and research to aid in determining the potential impacts of the proposed action:

- Researched the U.S. Fish and Wildlife Service (USFWS) - Information, Planning, and Conservation System (IPaC) about the project's potential to affect federally listed species, and has completed a biological field review relative to the potential species presence as required by the Endangered Species Act of 1973
- Consulted with the State Historic Preservation Officer (SHPO) to ensure the requirements of 54 U.S.C. 306108 (Commonly known as Section 106 of the National Historic Preservation Act) were properly addressed.
- Consulted with the Delaware Tribe Historic Preservation Representative to ensure the requirements with Native American Graves Protection and Repatriation Act (NAGPRA).
- NRCS completed a review, and performed determinations and delineations of areas meeting the three (3) mandatory criteria of wetlands in accordance with the procedures of the U.S. Army Corps of Engineers (USACE) 1987 Wetland Delineation Manual (Y-87-1) and supplements to determine the absence, presence, and extent of wetlands and waters of the United States relative to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.
- Consulted with Delaware Coastal Zone Management to receive a consistency determination

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## 2. DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

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### 2.1 Alternative A - Proposed Action

United States Department of Agriculture (USDA) Farm Service Agency (FSA) proposes to provide assistance for the construction of a poultry facility with a maximum capacity to potentially house 160,000 birds. The proposed poultry facility would consist of four poultry houses 60x500 feet with extended service pads of 40 by 40 feet at each end, feed bins, a manure shed, composter, generator shed, 4 wells, electrical service lines, 8 propane tanks, an access road and 3 storm water ponds. Additionally, a homestead area consisting of a mobile home, septic, well, propane tank and electrical service would be included in the proposed area. The proposed facility would be located on Sussex Delaware tax parcel 5-32-1.00-1.00 on the south side of Sharptown Rd, the west side of Rider Rd, just east of the Maryland border, Laurel, Delaware.

The proposed site is currently cropland, with no buildings. There is a blacktop main road that borders the property to the north, a riparian area to the west and south, and cropland to the east. The surrounding area supports similar poultry operations as evidenced by the aerial photo. See Appendix A.

The nearest neighbor, also a poultry farmer, is located approximately .25 miles to the east; the nearest church is located 2 miles southwest of the proposed site and nearest school is located 8 miles east of subject project site.

Ground disturbance would include grading and leveling the existing cropland for construction of the poultry houses and related infrastructure and excavation for construction of the storm water ponds. Wells and other activities such as electrical service lines and septic for the mobile home would also cause ground disturbance.

The EPA has delegated responsibility to various State and local agencies for establishing technical standards, monitoring, and enforcement of provisions for protecting important resources including but not limited to air and water quality. Permitting and the incorporation of related operating plans and best management practices are a requisite part of these regulatory processes. Accordingly, the proposed poultry operation and homestead would be constructed and operated under varying permits and plans required by Sussex County and/or the State of Delaware.

- County zoning laws relating to land use, setbacks of 50 feet from property lines and 200 feet from other dwellings not on the property, and other limitations or restrictions would be adhered to
- Building permits would be issued from Sussex county
- National Pollution Discharge Elimination System Permit (NPDES) would be issued by the Delaware Department of Agriculture

- Comprehensive Nutrient Management Plan, to address animal waste from the proposed facility would be formulated to established standards for the protection of water quality and issued from DNREC
- Sediment and Storm Water Pollution Prevention Plan to address storm water and sediment runoff would formulated to meet established standards for the protection of water quality and issued from DNREC
- Continuous Release Notification, to the EPA's National Response Center to address CRECLA and EPCRA reporting requirements would be made when birds are placed.
- State and County regulations and permits for infrastructure of homestead (mobile home placement, septic, well) would be obtained.

## **2.2 Alternative B - No Action Alternative**

The no action alternative means the proposed poultry facility would not be built. This would result in the continuation of existing conditions on the proposed site and no changes to the existing environment would occur.

## **2.3 Alternative C: Alternatives Considered by Eliminated from Analysis**

The availability and feasibility of purchasing a different tract is unknown in the local area. Without a specific location, description, and price of a different site, it is not possible to fully analyze potential impacts of the proposed project on another site and the issues inherent to poultry production would be similar to those on the subject site.

Similarly, alternative design features of the project components are not considered as they would alter the intended use of the infrastructure proposed. The applicant's agreement with the integrator requires adherence to the integrator's construction and equipment specifications, which are in place to ensure consistency, maximize production, and reduce loss. Design alternatives that would involve modification of features and infrastructure put in place by or for an integrator would jeopardize the availability of (bird/stock) placement, and therefore the viability of the farm. Accordingly, this alternative would not warrant further consideration.

Other uses for the land were not considered as the applicant does not have the knowledge, skill set or resources necessary to successfully engage in other forms of agriculture. Similarly other forms of agriculture would not as effectively meet the purpose and need for the project.

The applicant has applied for FSA assistance to fund construction of a poultry facility; therefore FSA's decision to be made is to approve the request for assistance as designed, to deny the request assistance, or to approve the request with additional mitigations, practices or methods that would be needed to minimize or eliminate impacts to protected resources.

## **3. AFFECTED ENVIRONMENT AND IMPACTS**

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### **3.1 Resources Eliminated from Detailed Analysis**

The impacts to a number of protected resources, as defined in FSA Handbook 1-EQ (Revision 3) Environmental Quality Programs for State and County Offices, are considered in this EA. Resources that are not eliminated are carried forward for detailed analysis. Section 3.1 contains discussions of those resources eliminated from detailed analysis. Section 3.2 describes the existing conditions for resources carried forward for detailed analysis and the anticipated impacts to those resources resulting from the proposed action.

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#### **3.1.1 Coastal Barrier**

Effects to coastal barriers were eliminated from detailed analysis because the proposed project is not located within the Coastal Barrier Resource System. See Appendix G.

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#### **3.1.2 Wilderness Areas**

Effects to wilderness areas were eliminated from detailed analysis, as there are no designated wilderness areas in Delaware. The nearest wilderness area is the Brigantine Wilderness, and it is located 95.4 miles from the project location and would not be impacted. See Appendix I.

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#### **3.1.3 Wild and Scenic Rivers (WSR)/Nationwide Rivers Inventory (NRI)**

Effects to Wild and Scenic Rivers/National Rivers Inventory were eliminated from detailed analysis. There are no Wild and Scenic Rivers listed in Sussex County, Delaware. The nearest river found on the National Rivers Inventory is the Nanticoke River. It is located approximately two miles from the project area and would not be impacted by this project. See Appendix J.

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#### **3.1.4 National Natural Landmarks**

Effects to national natural landmarks were eliminated from detailed analysis because the nearest national natural landmark is Battle Creek Cyprus Swamp and is located 48.4 miles from the project location. The landmark would not be impacted by this project. See Appendix K.

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#### **3.1.5 Sole Source Aquifers**

Effects to sole source aquifers were eliminated from detailed analysis because Sussex County does not have any sole source aquifers or sole source aquifer recharge areas located beneath the surface. See Appendix L.

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### **3.1.6 Floodplains**

Effects to floodplains were eliminated from detailed analysis because there are no floodplains located in the project area. See Appendix M.

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### **3.1.7 Wetlands**

Effects to wetlands were eliminated from detailed analysis because no wetlands lay within the project area as determined by the Natural Resource Conservation Services. A wetland determination was completed by the Sussex County NRCS, documenting that there is no wetland or highly erodible land that would be affected by the proposed production/construction area. The construction area is cleared crop land and the soil is non-wetland, and thus not subject to conservation provisions. If the applicant converted wetland prior to December 23, 1985 the applicant is exempt due to the converted wetland provision.

Adjacent to the proposed project area, there is a small isolated wetland identified on the National Wetlands Inventory. However, it is located outside the proposed project's area of potential effect. The activities and construction planned would not include draining, dredging, filling or in any way manipulating the identified wetland. See Appendix N.

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### **3.1.8 Soils**

Effects to soils were eliminated from detailed analysis because NRCS has determined that HEL soils are not present within the project area. See Appendix O.

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### **3.1.9 Important *Land Resources***

Effects on farmland, forest land and rangeland resources were eliminated from detailed analysis because the proposed action would not result in prime and/or important land being converted to a nonagricultural use. See Appendix Q.

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### **3.1.10 *Socioeconomic Impacts and Environmental Justice***

The socioeconomic impacts of FSA actions are evaluated on the programmatic level. After careful review of Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" it has been determined that participation in FSA programs as proposed would not cause any adverse human health or environmental effects.

The subject project site has established agricultural use zoning and would be in keeping with the zoning requirements established by appropriate state/county regulatory authorities. No special use permits, variances or change in use hearings would be required. The project involves widely accepted agricultural practices inherent with agricultural usage and keeping with the state right to farm statutes.

FSA has no control over policies, practices, requirements or procedures of state/county agencies. Issues or concerns regarding such changes are the purview of the appropriate state/county authority and are beyond the scope of this assessment. See Appendix R.

## **3.2 Resources Considered with Detailed Analysis**

This section describes the environment that would be affected by implementation of the alternatives described in Chapter 2. Aspects of the affected environment described in this section focus on the relevant major resources or issues. Under the no action alternative, the proposed action would not be implemented. The no action alternative would result in the continuation of the current land and resource uses in the project area. This alternative will not be evaluated further in this EA.

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### **3.2.1 Wildlife and Habitat**

These resources include vegetation, wildlife and protected species that characterize a region.

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#### ***3.2.1A Existing Conditions***

The proposed project site is currently cropland and is traversed through at all seasons of the year by various ground and vegetation disturbing equipment for preparation for planting, planting, intervening cultivation, fertilizing, spraying and subsequently by harvesting, chopping, establishment of cover crops and winter cleanup of ditches and buffers. Is it also used for recreational purposes such as ATVs, 4 wheelers, sport shooting and hunting.

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#### ***3.2.1B Impacts of Proposed Action***

The USFWS IPaC system was utilized to obtain an official species list for the Area of Potential Effect (APE). There were no threatened, endangered or candidate species on the species list. There were no critical habitats within the project area. See Appendix E.

Certain birds are protected under the Migratory Bird Treaty Act. IPaC generated a list of migratory bird species that may be affected by potential activities. The proposed project could impact migratory birds but impact would not be significant and the establishment of ponds and vegetation could provide added habitat that would not be disturbed and hence be beneficial to migratory birds. See Appendix E.

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### ***3.2.1C Impacts of No Action***

If the Proposed Action is not implemented, then the existing use of the property for crop production by tilling of the soil would continue. Conditions for wildlife and habitat resources on the site would not change and no different impacts would occur.

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## **3.2.2 Cultural Resources**

Cultural resources are important because they are the physical remains of human history. They are non-renewal resources and once an archaeological site is excavated, a landscape destroyed or a historic building demolished, it is gone forever. Besides the footprint of the project, the area of potential effect includes related infrastructure such as needed roads, utility lines, disposal areas and equipment storage areas.

### ***3.2.2A Existing Conditions***

The rural areas of Sussex County have had continuous human occupation since the late Paleo Indian period through the early historic periods. Artifacts from hunter-gather groups, including pipe stems, pottery shards, worked stone, and napped stone have been discovered. The proposed project site has been previously disturbed and is currently cropland, with the designation of prior converted (PC), indicating that this was once a wetland area. It is NHEL as determined by NRCS. It has been tilled for annual crop production for over 70 years. There are no structures located on the property. It is bound by a road on the north, cropland on the east, forest buffer and cropland on the south and west.

### ***3.2.2B Impacts of Proposed Action***

The area of the proposed project was screened to determine any potential effect on cultural resources. A site visit was completed with no known resources affected. Consultation with SHPO and The Delaware Tribe was initiated to determine if the project has potential for impacts. The applicant worked with SHPO to complete the requisite field work and research necessary to determine that there were no resources of concern located on the subject property which would preclude the proposed action or require mitigation. See Appendix F.

Impacts to previously unidentified historic properties, including archaeological and historic resources, could occur during construction. If such resources were to be encountered all activities would stop, FSA state and national office personnel would be notified, and the resources would be professionally evaluated for eligibility for listing on the National Register of Historic Places.

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### ***3.2.2C Impacts of No Action***

If the Proposed Action is not implemented, then the existing conditions for cultural resources on the site would remain unchanged and no different impacts would occur.

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## **3.2.3 Coastal Zone**

The Entire State of Delaware has been designated as being a coastal zone management area and potential impacts should be considered. The Delaware CZM program is administered by the Delaware Coastal Program which is part of DNREC's Division of Soil and Water Conservation.

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### ***3.2.3A Existing Conditions***

The proposed project site is currently cropland, and is located approximately 35 miles from the Delaware coast.

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### ***3.2.3B Impacts of Proposed Action***

Consultation was initiated with CZM in Delaware. Based on this consultation, there would be no effect on Delaware's Coastal Zone. See Appendix C and H.

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### ***3.2.3C Impacts of No Action***

If the Proposed Action is not implemented, then the existing conditions would remain unchanged and no different impacts would occur.

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## **3.2.4 Water Quality**

Through the Delaware Department of Agriculture, the Delaware Department of Natural Resources and Environmental Control and the Delaware Nutrient Management Commission have the authority to enforce provisions of the Clean Water Act that are protective of water quality to and to issue permits and approve plans that are protective of water quality standards. This authority is delegated to them by the Environmental Protection Agency. Accordingly these agencies are responsible for development and implementation of the State's policy for long-term water management and related water quality standards. Unlike FSA, these agencies have the technical skills and scientific expertise to determine what standards and related measures are/are not necessary to ensure the protection of water quality in the state and are responsible for monitoring and enforcement of related requirements and practices.

In the interest of making informed decisions, FSA must defer to this authority and respect the considered knowledge of those State Agencies to whom the EPA has

delegated authority for enforcement of provisions of the Clean Water Act and related provisions for the protection of the state's water quality.

FSA applicants are required to be in compliance with state policies and programs and demonstrate that they have followed the established state processes to obtain all requisite permits and operating plans that are required. FSA has no control over policies, practices, requirements or procedures of State regulatory or other agencies. Issues or concerns regarding state changes are the purview of the appropriate state authority and are beyond the scope of this assessment.

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### ***3.2.4A Existing Conditions***

The states of Delaware and Maryland garnered wetland assessment data to design a restoration strategy for the Delaware component of the Nanticoke watershed. A team of scientists and managers developed the Nanticoke Restoration Plan to address impacts to water quality from both agriculture and urban development.

The proposed project site is currently cropland and is located within the Nanticoke River watershed. Approximately 80% of the land use in the Nanticoke watershed is agriculture and forest. The closest surface water is the Nanticoke River which lies approximately 2 miles North West, in Maryland and 2.3 miles North, from the proposed site.

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### ***3.2.4B Impacts of Proposed Action***

The major concern with a CAFO is the contamination of surface and groundwater by animal waste. The operator would be required to follow a NRCS-approved Nutrient Management Plan. This approved plan would allow the operators to sufficiently control any runoff from the operation so that water quality would not be adversely impacted. Wells would supply water to the poultry houses and water would be hauled in as a backup water supply in cases of emergency.

This farm would be operated under the site-specific best management practices set forth in the NRCS-approved Comprehensive Nutrient Management Plan. The litter would be stored under cover in accordance with the NRCS-approved Comprehensive Nutrient Management Plan in a fashion that prevents the litter from being leached by rain until it can be properly disposed of. Plans for the project include a manure shed and composter to adequately address manure and bird mortality per NRCS requirements and the site-specific nutrient management plan. The manure and compost generated would be transported off-farm by certified handlers to other local farms where it would be applied to cropland as fertilizer, according to the requirements of the receiving farm operator's site specific nutrient management plan.

There would be three storm water ponds constructed to the north, east, and west of the construction area during preparation of the poultry house pads. These retention ponds would be designed by a professional engineering firm and would be required to meet NRCS technical specifications to accommodate run off from a ten year rain event. Adherence to the site-specific nutrient management plans would ensure that any local water bodies are not significantly adversely impacted by the proposed poultry operation, in that it is required to meet specific technical standards designed to minimize the transport of nitrogen and phosphorus to surface water.

Since the proposed construction project would disturb more than 5,000 sq. ft. of land, the farm owner/operator would be required to obtain a Storm Water Pollution Prevention Plan/Sediment and Erosion Management Plan. While EPA regulations require the plan and associated construction permit and monitoring, these regulations are supervised by DNREC in the State of Delaware, with the assistance of the county conservation districts. The applicant worked with the Sussex Conservation District to formulate an appropriate site-specific plan, which was then submitted to DNREC along with a Notice of Intent (NOI) to discharge storm water runoff from the construction activity. DNREC acknowledged receipt of the NOI and concurred with the District's plan approval. The approved plan outlines special instructions/practices applicable for the project to proceed. Contractors performing the site disturbance must have certification of training from DNREC, commonly known as Blue Card Certification. Throughout construction, the plan would be required to remain on site, and the owner or owner's representative would maintain a weekly log of self-inspections of erosion and sediment controls and storm water management facilities on the site. The local Conservation District may choose to require a Certified Construction Reviewer (CCR) for the site during construction. Upon completion of the project and stabilization of the disturbed area, a Notice of Termination (NOT) would be submitted to DNREC.

The regulatory state agencies tasked with said responsibilities referenced above, also provide oversight and monitoring to insure compliance and have the authority to take aggressive enforcement action when warranted.

The homestead area would be comprised of a mobile home and related infrastructure such as a well, septic system and electric. The homestead would follow all permitting and licensing provisions required by the State and County.

Due to the permitting and requisite provisions for best management practices in related plans and corresponding enforcement authorities of these agencies, the proposed action would have no significant adverse impact on water quality.

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### **3.2.4C Impacts of No Action**

The area would remain as cropland and continue to be tilled, and impacts to the existing water quality on the property would remain unchanged.

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### **3.2.5 Air Quality**

In general, Farm Service Agency Program actions have not been found to contribute to air quality issues. FSA is tasked to determine that any proposed actions are consistent with the objectives of the Delaware Clean Air Act State Implementation Plan (SIP). The State of Delaware limits/restricts open burning of refuse, construction debris, etc. Permits are required for incinerators, even when used for agricultural purposes. Farm generators/power units are required to burn low sulfur fuel. On March 23, 2018, the Consolidated Appropriations Act, 2018 (Omnibus Bill), was signed into law. Title XI of the Omnibus Bill, called the "Fair Agricultural Reporting Method Act" or "FARM Act" exempts the reporting of "air emissions from animal waste at a farm" under CERCLA. EPA interprets the statute to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304.

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#### **3.2.5A Existing Conditions**

The proposed site is cropland. Current farming activities produce minor localized dust, and emissions from farming equipment. These activities are normal and expected when operating a farming operation.

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#### **3.2.5B Impacts of Proposed Action**

Odor from the poultry facilities is not measurable. Releases of Ammonia and Hydrogen Sulfide would be an ongoing occurrence, and to comply with CERCLA and EPCRA, the producer would be required to submit an *initial continuous release notification* to the National Response Center for the proposed facility when the birds are placed.

Other emissions in the form of greenhouse gases produced by agriculture are primarily the result of the use of fossil fuels in running livestock facilities (electricity, heating, ventilation) and the use of trucks and other equipment (generators, tractors) on farms and are not reportable.

Open burning is strictly regulated by the state; and accordingly, the waste and refuse generated on site from construction or ongoing operations would be removed and not burned.

Dilution of odors and ammonia would be achieved through the mixing with ambient air. This dilution of odors and ammonia is a function of distance, topography, and meteorological conditions. Topographical features can either enhance or reduce dilution of the odors and ammonia, depending on the

particular features. Wind breaks or tree lines, like those already bordering the northwestern side of the farm tract, and best management practices would encourage mixing of the odors and ammonia with clean air and would result in minimal intermittent local odor impacts. Based on the climate in the Mid-Atlantic portion of the United States, there may be a few days during the year where weather conditions could cause odor and ammonia to hang in the area, but this would be a short-term non-significant impact.

Litter would only be stored on the property in a temporary or emergency situation. The nutrient management plan addresses the proper handling of this stored litter. Bird mortality would not be incinerated, but rather handled by the more environmentally-friendly method of composting. The deceased poultry would be disposed of using an on-site composting structure built to NRCS specifications, and which when managed properly per the NRCS-approved Comprehensive Nutrient Management Plan, would prevent the emission of significant objectionable odors associated with deceased poultry carcasses.

The emergency generator does not require a permit, would meet applicable EPA emissions standards, and would use only low-sulfur fuel.

Dust generated while the poultry facility is in operation would occur mostly during feeding with the dust being controlled by internal systems in the houses and interior fans. Wood shavings and dry litter would be handled according to the approved nutrient management plan. The houses would be cleaned-out per integrator standard practices or as-needed, with the removal of the top crust of litter between flocks of poultry. The shavings and litter would be removed by a Certified Animal Waste Handler.

Solid waste generated during construction or during production, such as construction debris or human-generated refuse, would be collected in an appropriate refuse container and transported off-site to an appropriate facility for disposition. No refuse would be burned or buried on the site.

Construction activities that disturb the soil surface could generate dust. Such impacts would be minor, temporary and localized, generally confined to the farm property and ongoing only during construction. Exposed soils would be wet down to control fugitive dust. Similarly, during construction, minor and localized emissions associated with heavy machinery could be expected. None of these construction related impacts would have a significant or long-term adverse impact to surrounding air quality.

Trucks would make several visits to the property each year to deliver new chicks and to transport grown poultry to the processing plant. Feed delivery trucks would make regular visits to the farm each week while birds are in cycle to deliver feed. Trucks would use the existing public roads. No new traffic patterns would be developed and no new upgrades of county roads would be needed. The magnitude of the contribution of the proposed action on

greenhouse gases would be miniscule in comparison to total annual greenhouse gas emission in the US.

The surrounding area is cropland, where farming activities such as slow moving equipment on roadways, dust, noise from equipment and odors from livestock and chemicals are normal and consistent with neighboring with neighboring farming practices and existing operations in the area.

Impacts from construction, as well as ongoing operations, would be of brief duration, irregular and infrequent in nature and would not be significant.

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### ***3.2.5C Impacts of No Action***

The area would remain as cropland and continue to be tilled. Related impacts to the existing air quality on the property would remain unchanged.

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### ***3.2.6 Noise***

Many factors contribute to the response to noise, and the human response varies across the population.

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#### ***3.2.6A Existing Conditions***

The proposed project site is existing cropland. Farm machinery such as tractors, combines, sprayers, trucks, generators and various other equipment are regularly used in the ordinary process of growing and harvesting crops. Throughout the year, there is activity on the farm where equipment is being utilized.

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#### ***3.2.6B Impacts of Proposed Action***

Some construction noise would be generated during the construction of the poultry houses. This noise would be localized, occur only during daylight hours, and should only last approx. 3-6 months. During operation of the proposed project, some noise would occur from occasional use of the generator. However, this would only occur during power outages and approx. once per week for 10-15 minutes for preventative maintenance. Noise associated with equipment usage for mowing, maintenance and movement of supplies, materials and removal of waste would be low level, infrequent in nature and during day light hours. Some noise would be emitted by the birds; but would be minimal as the birds are contained inside the poultry houses.

The poultry houses and infrastructure would be in compliance with applicable County property line set-back laws which are designed to

mitigate impacts. Some noise associated with truck traffic is expected, but would occur on an infrequent basis as feed is delivered and poultry transported to and from the farm.

While there may be intermittent low levels of noise associated with the proposed project, they would not be long lasting or harmful in nature. The traffic and noise generated by the proposed project would not be significant.

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### ***3.2.6C Impacts of No Action***

The area would remain as cropland with no changes to the noise levels currently experienced in the surrounding area.

## 4. CUMULATIVE IMPACTS

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The cumulative impacts analysis is important to understanding how multiple actions in a particular time and space (e.g., geographic area) impact the environment. The CEQ regulations define cumulative effects as “...the impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such actions” (40 CFR § 1508.7). Whereas the individual impact of one project in a particular area or region may not be considered significant, the result of numerous projects in the same area or region may cumulatively result in significant impacts. Cumulative impact analysis is subject to interpretation in analyzing the magnitude of impacts to a particular area or region. For this EA, the analysis area for cumulative impacts is Sussex County, Delaware.

In addition, poultry integrators have a demand for new facilities such as those proposed to provide an adequate supply for processing plants and keep them operating at an economically feasible capacity. Specialized livestock facilities have a limited useful life as they become functionally obsolete with technological advances. Similarly, as existing houses age and require repairs, a point of diminishing returns is reached and older facilities are routinely phased out as existing operators choose not to reinvest, retire or find alternative uses for the facilities. Accordingly, a pipeline of new facilities is necessary to insure an adequate and economical supply of low cost protein food for the nation.

### 4.1 Past, Present and Reasonably Foreseeable Actions

Federal, State, local, and private activities that are currently taking place, have occurred in the past, or may reasonably be assumed to take place in the future in the cumulative effects area include the following:

1. Agricultural crop production  
The whole of Sussex County is a rural, agricultural community with a history of grain and vegetable crop production
2. Poultry production  
Sussex County has historically been a leader in the poultry industry. As older facilities are phased out, new facilities will be constructed to replace them in order to continue to supply the processing plants. For the foreseeable future, there are no plans to add new integrators or processing plants, therefore, additional facilities will remain limited by the existing need. Poultry facilities have and will continue to be an important economical component to the success of the agricultural community.
3. Forestry  
A large part of Sussex County is forested. These wooded acres provide income to the rural community through managed harvesting of trees, recreation such as hunting, and enrollment in conservation programs.
4. Other livestock production

In the past, dairy and swine were more prevalent in Sussex County. Over time, many dairies and swine facilities have been retired and not replaced. With current prices for milk, it seems unlikely that the dairy industry will expand in Sussex County in future years.

5. Limited industry

While there are many companies and industries within the county, they are smaller in nature, with most of the industry within close proximity to the towns. The poultry industry is the largest industry within the county, with facilities populated throughout the whole county.

## **4.2 Cumulative Analysis**

Resources considered for detailed analysis are reviewed for cumulative effects.

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### **4.2.1 Wildlife**

Endangered species are not located at the proposed project site. Migratory birds currently rest in fields, rivers and ponds in the surrounding area. The proposed poultry facility would not prevent the migration habits of birds, and the additional ponds created for stormwater would provide additional habitat. No adverse cumulative impacts would occur.

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### **4.2.2 Cultural Resources**

The applicant worked with SHPO, to complete the field work and research needed to determine if historical or cultural resources may be present on the proposed site which warrant special consideration or protection. After a detailed review, SHPO determined that there would be no adverse cumulative impacts.

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### **4.2.3 Coastal Zone**

Based on the proximity of the proposed site to the coastal zone and the consistency determination from the Delaware Coastal Zone Management Program, there would be no adverse cumulative impacts.

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### **4.2.4 Water Quality**

By virtue of the associated plans and permits required by the State of Delaware for CAFOs, and the use of Best Management Practices, there would be no adverse cumulative impacts.

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#### **4.2.5 Air Quality**

By virtue of the associated plans and permits required by the State of Delaware for CAFOs, and the use of Best Management Practices, there would be no adverse cumulative impacts.

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#### **4.2.6 Noise**

The poultry facility would not contribute additional noise beyond what is being contributed by the existing farming operation. Since the area is historically and presently a rural agricultural community, and would be the same into the future, there would be no adverse cumulative impact.

## 5. LIST OF PREPARERS AND PERSONS AND AGENCIES CONTACTED

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| List of Preparers |                                          |
|-------------------|------------------------------------------|
| Name and Title    | Education and Experience                 |
| Lynn T Manges     | Delaware State Environmental Coordinator |
| Harry Hudson      | Program Technician                       |
| Colleen Reed      | Farm Loan Specialist                     |
|                   |                                          |
|                   |                                          |

| Persons and Agencies Contacted |                                             |
|--------------------------------|---------------------------------------------|
| Name and Title                 | Affiliation                                 |
| Gwen Davis                     | Delaware State Historic Preservation Office |
| Tricia Arndt                   | Delaware Coastal Programs                   |
| Kate Fleming                   | Delaware Fish and Wildlife                  |
| Chief Chester Brooks           | Delaware Tribe of Indians                   |
| Susan Bachor                   | Delaware Tribe Preservation Representative  |

## 6. REFERENCES

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Food and Security Act of 1985 as amended

Consolidated Farm and Rural Development Act as amended

7 CFR . Implementing regulations found in Parts 762 and 764

1EQ Revision 3 FSA Handbook

CRECLA section 103

CEQ 1997. Council on Environmental Quality (CEQ). 1997. Environmental Justice Guidance Under the National Environmental Policy Act.

US Fish and Wildlife: <https://ecos.fws.gov/ipac/>

Delaware State SHPO: [Faye.Stocum@State.De.US](mailto:Faye.Stocum@State.De.US) [Gwen.Davis@State.De.US](mailto:Gwen.Davis@State.De.US)

Delaware State Coastal Management: [Kimberly.cole@state.de.us](mailto:Kimberly.cole@state.de.us) [Pat.hoffman@state.de.us](mailto:Pat.hoffman@state.de.us)

Delaware State Division of Fish and Wildlife: [Kate.fleming@de.state.de.us](mailto:Kate.fleming@de.state.de.us)

US Fish and Wildlife Species List: <https://ecos.fws.gov/ipac/project/list>

Farm Map: Sussex FSA ArcMap

CHRIS Maps: <https://chris-users.delaware.gov/#/>

Topographic maps: <https://nationalmap.gov/ustopo/index.html>

Wetland maps: <https://www.fws.gov/wetlands/Data/Mapper.html>

Delaware Coastal Barrier Map:  
<https://www.fws.gov/ecological-services/habitat-conservation/cbra/maps/a/DE.pdf>

Delaware Coastal Zone Map:  
<http://www.dnrec.delaware.gov/Admin/CZA/Documents/Map%20of%20the%20Coastal%20Zone.pdf>

Wilderness Area Map: <http://www.wilderness.net/map>

Wild and Scenic River Delaware Map:  
<https://nps.maps.arcgis.com/apps/MapJournal/index.html?appid=ba6debd907c7431ea765071e9502d5ac>

National River Inventory Delaware List: <https://www.nps.gov/ncrc/programs/rtca/nri/states/de.html>

Nearest National Landmark Map (Maryland/New Jersey/Pennsylvania/Virginia because Delaware has none):

<https://www.nps.gov/subjects/nnlandmarks/state.htm?State=MD>

Sole Source Aquifer Map (New Jersey/Pennsylvania/Virginia because Delaware has none):

<https://epa.maps.arcgis.com/apps/webappviewer/index.html?id=9ebb047ba3ec41ada1877155fe31356b>

Flood Plain Maps:

<https://msc.fema.gov/portal/search?AddressQuery=burnite%20mill%20rd%2C%20harrington%2C%20de#searchresultsanchor>

Wetlands map and Inventory List: <https://www.fws.gov/wetlands/Data/Mapper.html>

Soils map and Inventory List: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Prime Farmland Maps: [https://www.nrcs.usda.gov/wps/portal/nrcs/detail/null/?cid=nrcs143\\_013686](https://www.nrcs.usda.gov/wps/portal/nrcs/detail/null/?cid=nrcs143_013686)

Census Bureau Fact Finder Chart:

[https://factfinder.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml)

Environmental Justice Report/Charts:

<https://ejscreen.epa.gov/mapper/index.html?wherestr=delaware>