

Bell Properties, LLP Number HC-090306-1

ATTACHMENT A

[DATE]

Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Dear Sir or Madam:

Re: Holly Farm
Permit Number: COB-013000 (the "Permit")

The undersigned _____, the [TITLE] of [COMPANY NAME] (the "Company"), pursuant to authorization provided by the Company, hereby certifies to the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") that, as of the date above, the following are true and correct statements:

1. The Company has entered into an agreement with Bell Properties, LLP ("Bell Properties") the owner of Holly Farm to [LEASE OR MANAGE, AS APPLICABLE] the facility.
2. The Company acknowledges that Holly Farm is subject to the Permit and the certain Compliance Order on Consent, dated as of _____, between the Division and Bell Properties (the "Consent Order"), and that the Company has reviewed the Permit and the Consent Order and is familiar with those documents. In particular, and without limiting anything else herein provided, the Company has reviewed and is familiar with Paragraph Number 10 of the Consent Order requiring it to become a co-permittee under the Permit before it may begin operating the Holly Farm.
3. In accordance with Paragraph Number 10 of the Consent Order, the Company hereby agrees to be named by the Division as a co-permittee under the Permit with respect to Holly Farm, effective as of the date designated by the Division, and that as such a co-permittee, the Company agrees to accept and to be bound by the terms, condition, liabilities, and rights granted to a permitted party with respect to Holly Farm under the Permit and under the Consent Order.

[COMPANY NAME]

By: _____
Its: _____

Bell Properties, LLP COC Number HC-090306-1

ATTACHMENT B

[DATE]

Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Dear Sir or Madam:

Re: Holly Farm
Permit Number: COB-013000 (the "Permit")

The undersigned _____, a Co-Managing Partner of Bell Properties, LLP ("Bell Properties" or the "Company"), pursuant to authorization provided by the Company, hereby certifies to the Colorado Department of Public Health and Environment's Water Quality Control Division (the "Division") that, to the best of his knowledge, the following are true and correct statements as of the date above: Since May 25, 2007, the date of the most recent permit amendment issued by the Division with respect to the Holly Farm, (a) the operation units of Holly Farm (including the associated maximum animal capacity and the land application sites specified in Part I(A)(1) of the Permit have not changed such that a permit amendment is required under 5 CCR 1002-61 and (b) no other operational changes to Holly Farm have been or will be made that require a permit amendment under 5 CCR 1002-61, prior to the Permit having been amended by the Division authorizing such a change(s).

"I certify under penalty of law that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Bell Properties, LLP

By _____
Its Co-Managing Partner

Colorado Housed Commercial Swine Feeding Operations (HCSFOs)

Financial Assurance Plan (FAP) Template

October 1, 2008

Revised January 14, 2009

This document was developed by the Colorado Department of Public Health and Environment (Department) to serve as a template for submitting a HCSFO Financial Assurance Plan (FAP) to the state for review and approval. The template for the FAP includes the requirements of subsection 61.13(3)(h) of Regulation No. 61 Colorado Discharge Permit System Regulations (regulation). Please note that permittees must comply with all financial assurance requirements specified in sections 61.13(3)(h) and 61.13(4)(h) of the regulation. This document is not applicable for facilities that have production area(s) or land application site(s) on state trust land. The Department reserves the right to modify the FAP template as needed to meet the regulatory requirements.

Completion of all applicable sections of this document as provided will expedite the FAP approval process. Please note that all cost estimates must be prepared under the supervision of a professional engineer registered in the State of Colorado. For questions about this document or other FAP matters, contact Chris Hill at 303-692-3614 or via e-mail at christopher.hill@state.co.us.

I. Facility Information

- A. Permit #:
- B. Permittee Name:
- C. Contact Person:
- D. Phone Number of Contact Person:
- E. Facility Physical Address:
- F. Facility Mailing Address:
- G. Owner Name:
- H. Phone Number of Owner:

- I. Identify the facility assets owned by the Permittee:
 Swine Barns Land Application Sites Production Area

II. Description of Facilities

- A. Maximum number of swine as noted in the permit:

- B. Total number and acres of land application sites as noted in the permit:

Attachment A: Create a table that lists the following information for each impoundment and include with the FAP as Attachment A.

Impoundment I.D.	Size (length, width, depth)	Maximum Wastewater Volume (gallons)	Liner Material	The volume of residual solids that will accumulate after 10 years	Is the volume of residual solids based on an estimate or site specific measurements
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III. Closure Activities

This section is intended to provide background for determining the cost estimates for the Department to hire a third party to close the facility. The cost estimates in the FAP must be based on the facility operating at full capacity as listed in the permit. The items from this section need to be included in the Cost Estimate Table (Section XII, Attachment D).

A. Cost Estimate for Live Swine Removal

Please complete this formula to calculate the maximum number of swine that a third party would have to remove.

Maximum number of swine in permit x 0.97 (this accounts for 3% mortality) =
(*Swine Removal Number*)

Please select one of the following methods to determine the cost estimate for live swine removal:

1. Provide a cost estimate, **including calculations**, for a third party to remove the number of swine calculated above as the *Swine Removal Number*.

2. **Attachment B:** Include with the FAP a cover letter and an agreement with a third party (e.g., another HCSFO, hauler, bank) regarding the care and transportation of the number of swine calculated above as the *Swine Removal Number*. At a minimum, the agreement and cover letter must contain the information listed in the sample agreement and cover letter included with this template.

B. Cost Estimate for Mortality Disposal

Provide a cost estimate, including calculations, for a third party to properly dispose of the swine mortality number (3% of the permitted swine number) either through rendering or another appropriately justified method. For example, any composting would require hauling and processing costs associated with an offsite licensed compost facility.

C. Cleaning of Swine Structures

Provide a cost estimate for a third party to clean all swine structures, barn pits, and/or clean out areas, assuming the facility is at maximum capacity and the barns have not been cleaned since the last rotation of animals. Include a description of the clean out methods (e.g., power washing, scraping, etc.) used for the estimate. Base this estimate on a yearly assessment by the facility of whether additional cleaning is needed in order to remove any build up of residual solids.

D. Disposal of Wastewater and Residual Solids

Provide a cost estimate for a third party to properly dispose of the wastewater and residual solids either through land application, evaporation, deposit at a landfill, an alternative technology, or some combination of these methods. The cost estimate should assume that the impoundments are at full capacity minus one year of

Attachment C

evaporation. All wastewater that will not evaporate over a one-year period must be disposed of through land application or other suitable method described above. Include a description of the disposal method(s) used for the estimate and a timeline no longer than 24 months (e.g., 12 months for disposal of wastewater and 12 months for drying and disposal of residual solids). If additional (e.g., offsite) land application is needed, include costs for pumping, transportation within a 5-mile radius, and application. (The Department /third party will locate land application fields and apply the wastewater in accordance with applicable regulations.)

E. Removal of Compost

1. State whether a composting site currently exists in the permitted area.

-Please note that for the purpose of this FAP, a composting site is one where residual solids or swine feeding process wastewater is or was added to compost, including to mortality compost.

Yes, proceed to number 2

No, proceed to Impoundment Closure (Section III, Part F).

2. Provide a cost estimate for a third party to remove the maximum amount of compost that will be on-site at any point in a year and indicate whether it will be disposed of through land application in accordance with the permit (only if the permit provides for land application) or through transportation to a landfill.

F. Impoundment Closure

Provide a cost estimate for a third party to close each impoundment and a description of the closure methods used for the estimate.

The estimate(s) must include the following (as applicable):

- The removal and disposal of plastic liners in a landfill. The plastic liners are defined as solid waste.
- The procedures that will be used to minimize the movement of nitrogen in the soil below an earthen liner. This requires backfilling the impoundment with 5 feet of soil unless another method is justified and approved by the Department.
- Procedures to prevent water ponding or water storage as required by the Colorado Division of Water Resources.

IV. Remediation of Contamination

This section is intended to provide background information for determining if cost estimates for the remediation of contaminated areas needs to be included in the FAP. The applicable items from this section need to be included in the Cost Estimate Table (Section XII, Attachment D).

A. Composting Sites

1. State whether a composting site currently exists in the permitted area, or has existed in the permitted area since July 31, 1999 (Note - this question differs from Section III, Part E(1)).

Attachment C

-Please note that for the purpose of this FAP, a composting site is one where residual solids or swine feeding process wastewater is or was added to compost, including to mortality compost.

Yes, proceed to number 2

No, proceed to Part B of Remediation of Contamination.

2. Provide a list of all existing and historical (after July 31, 1999) locations of compost sites, then proceed to number 3.

3. State whether a liner was in place at the compost site(s) that met the regulatory maximum seepage rate requirement of 1×10^{-6} cm/sec. Where such a liner was in place, include in the FAP a certification to this effect by a professional engineer registered in the State of Colorado.

Yes, the certifications for the composting site(s) liner have been included (proceed to Part B of Remediation of Contamination).

No, the certifications for the composting site(s) liner have not been included (proceed to number 4).

4. Where the required liner was not in place, provide a cost estimate for the soil under the composting site(s) to be tested for nitrogen (nitrate-N plus ammonium-N) and for the analytical results to be submitted to the Department within 90 days of FAP being approved. (*Samples need to be taken from the top 6 feet of soil in 2 foot increments. For sandy soils, samples need to be taken from the top 8 feet in 2 foot increments.*) Proceed to number 5.

5. The Permittee must state that the FAP will be revised as follows within 30 days of the Department receiving the sample results:

If the soil is contaminated the FAP must be revised to include these areas in the Contaminated Soils section. The soil (in non-land application areas) is contaminated when it has an N (nitrate-N plus ammonium-N) concentration of >72 lbs/acre in any 2 foot slice or a total of 200 lbs/acre in the top 6 feet of soil (for sandy soil, the values are >40 lbs/acre in any 2 foot slice or a total of 150 lbs/acre in the top 8 feet of soil).

If the soil is not contaminated, amend this section of the FAP to show the sample results.

B. Contaminated Soils

1. State whether contaminated soils currently exist in the permitted area (excluding soils beneath impoundments, barns, or compost sites with liner certifications). Contaminated soil is any area (not including a properly handled "de minimis" spill area) that has been in contact with swine waste and:

-In non-land application areas, the soil has a nitrogen (nitrate-N plus ammonium-N) concentration of >72 lbs/acre in any 2 foot slice or a total of 200 lbs/acre in the

Attachment C

top 6 feet of soil (for sandy soil, the values are >40 lbs/acre in any 2 foot slice or a total of 150 lbs/acre in the top 8 feet of soil),

or

-In land application sites, the monitoring zone has a nitrate-N concentration > 72 lbs/acre in the 4-6 foot zone (4-6 foot and/or 6-8 foot in sandy soil).

- Yes, proceed to number 2.*
 No, proceed to part C of Remediation of Contamination.

2. State all existing locations of contaminated soil including the amount/extent of contamination and the breadth and depth of contamination, then proceed to number 3.

3. Provide a cost estimate for a third party to complete the following (include a description of the methods used for the estimate):

- a. Remediation of contaminated soils, including a statement of the remediation goals and time line (not to exceed 6 months). If removed soil will be land applied, the FAP must state that this will be done in accordance with the provisions of the permit.
- b. Monitoring to ensure the clean up goals are met. Include a timeline and justification for the amount of time needed.

C. Contaminated Ground Water

1. State the distance to ground water under the permitted area(s) (production and land application sites), then proceed to number 2.

-Acquire this information from the permittee's Monitoring Plan.

2. State whether ground water under the permitted area(s) exceeds a nitrate-N concentration of 10 ppm.

- Yes, proceed to 3.*
 No, proceed to part D of Remediation of Contamination.

3. List the well(s) that contain the nitrate-N concentration >10 ppm and provide the nitrate-N monitoring data for these well(s) for the period January 1, 1998 to present.

4. Based upon a review of the monitoring data, the Department may require the permittee to demonstrate whether elevated nitrate-N concentrations are the result of HCSFO activities since July 31, 1999. Where elevated nitrate-N concentrations are the result of such activities, the Department will require that the FAP be revised to include a cost estimate to remediate the contaminated ground water, including a description of the remediation and monitoring method(s) that will be used. Provide a timeline and justification for the amount of time needed for remediation (not to exceed 6 months) and monitoring.

D. Contaminated Surface Water

1. Identify surface waters of the state that exist within the permitted areas (production area and land application sites).

2. State whether surface water is currently contaminated by the HCSFOs activities since July 31, 1999. (*Surface water is contaminated where a pollutant in swine feeding process wastewater or residual solids exists in the surface water as a result of an unauthorized discharge from the facility.*)
 Yes, proceed to number 3.
 No, proceed to Post Closure Activities (Section V).

3. Provide a cost estimate to remediate contaminated surface water, including a description of the remediation and monitoring method(s) that will be used. Provide a timeline and justification for the amount of time needed for remediation (not to exceed 6 months) and monitoring.

V. Post Closure Activities

Provide a cost estimate for a third party to conduct all post closure activities including but not limited to, continuing maintenance and monitoring activities required to ensure that contamination does not pose a continued measurable risk to ground water or surface water. Each post closure activity may have a unique timeline.

- If no post closure activities are required, provide justification.

VI. Documentation and Reporting

Provide a cost estimate for a third party to document all Closure Activities (Section III), Remediation of Contamination activities (Section IV), and Post Closure Activities (Section V) that are applicable.

VII. Timeline of Closure and Post-Closure Activities

Provide an estimated time of completion for each item from the sections Closure Activities (Section III), Remediation of Contamination (Section IV), and Post Closure Activities (Section V) of this document.

-Note that all activities must be completed within 6 months unless otherwise stated in this document or reasonably justified.

VIII. Statement From the Permittee

Provide a statement indicating that the FAP and the financial assurance instruments will be updated by the Permittee on a yearly basis in accordance with the requirements of section 61.13(4)(h)(vi) of the regulation and including, at a minimum: inflation, deflation,

and/or changes in the operation pertinent to the cost of closure, post closure or required corrective action.

IX. Proposed Form of Financial Assurance

A. State the amount of Financial Assurance the facility must provide (this should match the "Grand Total" number from the Cost Estimate Table).

B. Indicate what financial assurance instrument the facility proposes to use to secure the required amount of financial assurance (the instrument options are specified in section 61.13(4)(h)(viii) of the regulation). As a reminder, once the FAP is approved, an approved financial assurance instrument must be submitted by the Permittee within 90 days, per section 61.13(4)(h)(v) of the regulations.

-Please note that if you propose to use the financial test or guarantee as the financial assurance instrument, the proposal will be reviewed against the to-be finalized guidance document for the financial test or guarantee.

X. Certification Statement

Please include the following certification statement and signature in the FAP.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signature

Date Signed

Name (printed)

Title

XI. Attachment C: Engineer Certification

Provide a stamped certification that the cost estimates were prepared under the supervision of a professional engineer registered in the State of Colorado.

XII. Attachment D: Cost Estimate Table

The cost estimate table (see attached) should include columns for labeled units (hours, swine, gallons, tons, etc), number of units, estimated unit cost, and estimated total cost for each task. At a minimum, the table must show the cost estimates for a third party to:

- Conduct the Closure, Remediation of Contamination, and Post-Closure activities identified in this document.

- Document (e.g., activity logs) and report all Closure, Remediation of Contamination and Post-Closure activities.

- Mobilization and demobilization costs for the third party contractor.

- A contingency cost of 20% of the total closing and post-closing activities.

Attachement B: Cover Letter (example)

Letterhead of HCSFO Facility

Date

Colorado Department of Public Health and Environment,

_____ (permittee) has enclosed with this cover letter the agreement that provides for removal of live swine, by a third party, in the event that the permittee abandons a housed commercial swine feeding operation facility covered under its discharge permit (“HCSFO facility”) and the Colorado Department of Public Health and Environment must close the facility.

The purpose of this agreement is to satisfy, in part, the requirements of subsection 61.13(h) of Regulation 61 (“Colorado Discharge Permit Systems Regulations”), which requires that a financial assurance plan contain itemized cost estimates for hiring a third party to close a housed commercial swine feeding operation. The enclosed agreement takes the place of a cost estimate for removal of live swine.

Inherent with this agreement is permission from _____ (permittee) for the stated third party to enter a HCSFO facility and remove the live swine if the Department is conducting closure of the facility.

Signature

Date Signed

Name (printed)

Title

Attachement B: Agreement (example)

Letterhead of third party responsible for removal

Date

Name of HCSFO,

_____ (removal agent) is providing this agreement with _____ (permittee) regarding the removal of all live swine in the event that the permittee abandons a housed commercial swine feeding operation facility covered under its discharge permit ("HCSFO facility") and the Colorado Department of Public Health and Environment (Department) is required to close the facility. Upon activation of this agreement by the Department, the live swine at the HCSFO facility will be the property and responsibility of _____ (removal agent).

Within 24 hours of receiving a call from the Department, we (removal agent) will have personnel at the HCSFO facility to make sure all animals are taken care of with good husbandry practices (e.g., are provided sufficient water and feed) until removed. Within 72 hours of receiving a call from the Department, we will have trucks and loading personnel available to begin transport of all animals, regardless of size or type, from the HCSFO facility to a market or other offsite location.

The size and number of animals present will determine the approximate time to empty the HCSFO facility. We can haul _____ (loads) per day consisting of, _____ (X head) of 15-60 pound swine, _____ (X head) of 260 pound swine, or _____ (X head) of 550 pound swine per load.

We will be responsible for all costs related to the removal of live swine, including all sick and/or diseased animals.

We will operate the HCSFO facility in accordance with the applicable regulations, as identified by the Department, during the time required to load and remove the swine.

Signature

Date Signed

Name (printed)

Title

Attachment D (example): This table is provided only as an example and is not intended to include all the information that the Permittee may be required to provide.

Financial Assurance Plan				
Example Cost Estimate Summary Table				
XYZ HCSFO; Permit No. COB-				
Closure Activities				
Mobilization/Demobilization				
Removal of "x" number of Swine				
Transportation of "x" number of Live Swine				
Removal of "x" number of Dead Swine				
Cleaning of Swine Structures				
Labor, Equipment, Operating Costs				
Removal of Wastewater and Residual Solids				
Pumping of "x" gallons of Wastewater				
Transportation of "x" gallons of Wastewater to Landfill				
Removal of "x" gallons of Residual Solids				
Land Application of "x" gallons of Residual Solids				
Closure of Impoundments				
Labor, Equipment, Operating Cost				
Removal of Plastic Pond Liner				
Removal of Compost				
Disposal of "x" amount of Compost				
Documentation and reporting				
Remediation of Contamination				
Remediation of Contaminated Compost Sites				
Testing for Contamination of "x" Sites				
Remediation of Contaminated Soils				
Removal of Contaminated Soils				
Monitoring (e.g., testing)				
Disposal of Contaminated Soil				
Remediation of Contaminated Ground Water				
Removal of Contamination				
Monitoring (e.g., testing)				
Disposal of Contaminant				
Remediation of Contaminated Surface Water				
Documentation and reporting				
Post Closure Activities				
Monitoring of Ground Water (e.g., testing)				
Monitoring of Ground Water (Labor)				
Other continued monitoring				
Other Post-Closure activities				
Documentation and reporting				
20% Contingency				