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WASTEFUL FLOODING

BY JAKE MILLER

On October 8, 2016, Hurricane Matthew hit the eastern U.S. seaboard with category one force.[1] Among the several states hit with Matthew's force was the state of North Carolina. As with all hurricanes, heavy rains ensued. With heavy rains came flooding, more specifically, the flooding of anaerobic lagoons. An anaerobic lagoon, also known as an animal waste lagoon, is a lined or unlined man-made body of water that is used for wastewater treatment.[2] The flooding of these lagoons has presented health and environmental concerns for the state of North Carolina. Because of an increase in animal operations, the North Carolina legislature has sought to regulate the disposal of animal waste as a means to protect water quality and to protect against other environmental issues.[3]

In order to construct or operate an animal waste lagoon, North Carolina requires each operator to obtain a permit.[4] At least once a year, North Carolina's Division of Water Resources requires an inspection of the permit holder's lagoon "to determine whether the system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit." [5] In addition to water quality inspections, the retention of the a permit is conditioned upon several performance standards,[6] yet there are no standards in place that would decrease the risk of the lagoons polluting outside water sources in the event of heavy rain or hurricane.



While water inside the lagoons is heavily regulated, the protective perimeters surrounding a lagoon are relatively unregulated. In the technologically advanced society that we live in, there should also be regulations of the facilities that surround the lagoons. The closest facility regulations in place are one that may require the ponds themselves to be lined with a protective barrier that would prevent

polluted water from seeping into the ground.[7] One possible regulation, for new lagoons, would be to require lagoons be built on land that is geographically elevated compared to the surrounding terrain so rising water would be less likely to run into the lagoon. A regulation for existing lagoons could be to build flood walls around the lagoon that would protect it from water flooding in. Based upon the recent flooding and pollution of North Carolina animal waste lagoons, any regulation would be better than no regulation at all.

[1] *Hurricane Matthew Recap: Destruction From the Caribbean to the United States*, The Weather Channel (Oct. 10, 2016, 10:59 AM), <https://weather.com/storms/hurricane/news/hurricane-matthew-bahamas-florida-georgia-carolinas-forecast>.

[2] 40 C.E.R. § 98.350(b)(3) (2016).

[3] N.C. Gen. Stat. Ann. § 143-215.10A (West, Westlaw through 2016 Regular Session).

[4] N.C. Gen. Stat. Ann. § 143-215.10C (West, Westlaw through 2016 Regular Session).

[5] N.C. Gen. Stat. Ann. § 143-215.10F (West, Westlaw through 2016 Regular Session).

[6] N.C. Gen. Stat. Ann. § 143-215.10I (West, Westlaw through 2016 Regular Session).

[7] *Wastewater Technology Fact Sheet: Anaerobic Lagoons*, US Env't. Protection Agency, <https://www3.epa.gov/npdes/pubs/alagoons.pdf> (last visited Oct. 27, 2016).

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