



LAND STEWARDSHIP PROJECT

Land Stewardship Project Policy & Organizing Program

2919 42nd St. E.
Minneapolis, MN 55406

Phone: 612-722-6377 ♦ Website: www.landstewardshipproject.org

Mr. Brad Moore
Commissioner
Minnesota Pollution Control Agency
75 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155-4194

April 14, 2008

Dear Commissioner Moore:

We are writing to you as neighbors of the Holden Farms, Inc. hog facility in Lyle Township, Mower County. We have supplied the Minnesota Pollution Control Agency with information that demonstrates clear wrongdoing in this case. This includes a purchase agreement signed on July 9, 2007 between Lowell Franzen and Nick Holden months before Franzen applied for a NPDES permit on Oct. 20, 2007. In the agreement Franzen is obligated to transfer the permit and property over to Holden within 60 days of receiving the permits. Holden agrees to pay Franzen \$264,000.

The MPCA has taken very little action to remedy the situation in a manner that would address the harm done to us as neighbors. This large-scale hog confinement stinks already and we expect the odor to get much worse this summer. This facility undermines independent, family owned hog farms which we support. This facility will pollute the air and water. This facility will harm nearby businesses and reduce our property values substantially. Our environment, which the MPCA is entrusted to protect, will suffer further if you continue your inaction.

The MPCA began an investigation of the issue on September 20, 2007. Nearly, six months later we have heard nothing about the results of the investigation. We assume you may be talking with Holden Farms, Inc. about a settlement on the issue. Our opinion in this matter has not been sought by the MPCA, even though we are those who stand the most to lose. Below is the action we believe the MPCA must take to protect the environment and the public interest. No settlement should absolve any individuals or businesses associated with this hog confinement from further action by the MPCA or state.

1. The NPDES feedlot permit for this large-scale hog confinement must be revoked and the hog confinement shut down. This is warranted because there were intentional violations of the state feedlot rules by persons whose occupations made them very aware of the rules. Lowell Franzen as the county feedlot officer is aware of the state feedlot rules. Nick Holden is aware of the rules through his association with Holden Farms, Inc., one of the largest operators of hog confinements in the country with many facilities permitted in Minnesota.

MPCA feedlot rules define an owner as “all persons having possession, control, or title to an animal feedlot or manure storage area.” (MN Rules 7020.0300). Rules also require disclosure of the owner on the permit application: “An application for a permit must contain.... the names and addresses of the owners and the signature of at least one of the owners” (MN Rules 7020.0505).

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The purchase agreement signed on July 9 two months before the permit was applied for on Oct 20, 2006, made Holden an owner according to these rules and he should have been listed on the permit.

This blatant violation of MPCA rules warrants strong repercussions and the feedlot permit should be revoked. It is certain that the hog confinement would have received strong opposition from neighbors if Holden was on the permit. Holden has a bad track record and their operations have been opposed successfully in Winona, Wabasha, and Goodhue Counties. Holden and Franzen intentionally kept Holden's control secret, in violation of state rules, to avoid controversy.

In this situation, the MPCA is given power expressly in Minnesota rules to revoke a permit:

MN Rules 7001.0180 JUSTIFICATION TO COMMENCE REVOCATION WITHOUT REISSUANCE OF PERMIT. The following constitute justification for the commissioner to commence proceedings to revoke a permit without reissuance:... B. the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or to the commissioner;

2. Holden Farms, Inc. or any representative of Holden Farms, Inc. must be prohibited from reapplying for a feedlot permit to operate this facility. Holden Farms, Inc. has demonstrated a lack of respect for the community, fair dealings and MPCA rules. There must be repercussions for this egregious behavior and it should bar them from consideration for another permit.

3. This facility must require an individual NPDES permit and a new Environmental Assessment Worksheet (EAW) to be operated in the future.

4. An individual NPDES permit should be required for this operation with the following conditions:

- Continuous hydrogen sulfide monitors at the property line paid for by the permit holder and monitored by the MPCA at least weekly with the data sent to a representative of the neighborhood group. Exceeding the state hydrogen sulfide standard should result in immediate fines and an inability to come into compliance should result in a downsizing of the operation until compliance is achieved.
- Test wells along the perimeter of the lagoon to monitor the integrity of the structure. These should be paid for by the permit holder and monitored by the MPCA. This data should be made available to neighbors.
- Creation of an odor reduction plan that must include pit additives, bio-filters and use of hog feed that reduces odor. Compliance with this plan will be monitored by the MPCA and the MPCA will meet with neighbors on a regular schedule to evaluate the plans effectiveness.
- No spreading of manure on a Friday, weekend or holiday and 72 hour notice to neighbors within one mile of any field where manure is to be spread.
- The permit holder must pay for any assessed damages to the township road within 60 days or their permit is suspended.

The fact that this deception involved the county feedlot officer and that it was so well planned and involved such a large amount of money (at least \$292,000) demands clear and meaningful repercussions.

Sincerely,

Mower County Residents and Neighbors to the Holden Feedlot.