

PLANNING & DEVELOPMENT

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Item 03
04-21-15

Timothy Huey
Director

To: Dee F. Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: April 14, 2015

Re: Waiver of right to appeal the issuance of a final construction permit by the Iowa DNR within 14 days after receipt of the draft permit for Grandview Farms expansion of its confined animal feeding operation located at 12090 and 11872 240th Street.

On March 12th The Board approved the resolution with its determination that the Construction Permit application submitted to the Iowa DNR by Grandview Farms met the requirements of the Master Matrix and recommended issuance of the State construction permit. This was the fifth construction permit application for Grandview Farms expansions that the Board has reviewed for compliance with the requirements of the Master Matrix since 2005. Under Iowa DNR procedures; following notification of the Board's recommendation, the Iowa DNR conducts its own review and notifies the Board of its "notice of intent" to issue the permit. The Board then has a 14-day window to appeal that issuance. With the previous four reviews, Grandview Farms has requested the Board waive this 14-day review period to allow the DNR to issue the final permit without a two week delay. The Board has approved this waiver with all the previous four applications.

On April 14, 2015 Scott County has received the Iowa DNR's Notice of Intent to issues the Grandview Farms State Construction permit. The Notice of Intent letter from the DNR is attached. Grandview Farms' request for the Board to again waive this 14 day appeal period is also attached as well as a draft of the letter to the DNR.

Grandview Farms, Inc.

12090 240th St.
Eldridge, IA 52748
563-285-4006
bdittmer13@gmail.com
tadittmer@aol.com

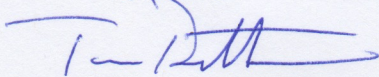
March 11, 2015

To: The Scott County Board of Supervisors

Dear Board,

We would like to cordially request the Scott County Board of Supervisors to waive its 14 day right to appeal the DNR's decision after their 30 day review of our construction permit application.

Sincerely yours,



Tom Dittmer

President, Grandview Farms



Ben Dittmer

Vice President, Grandview Farms



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

April 13, 2015

Scott County Board of Supervisors
Attn: Tim Huey, Director of Planning and Development
500 W. 4th Street
Davenport, IA 52801

RE: Notice of Intent to Issue a Permit
Grandview Farms, Inc. Sow Site and West Sow Site, Facility ID #59556
Scott County

Dear Mr. Huey:

This department has made a preliminary determination that Grandview Farms, Inc. has met the legal criteria to be issued a construction permit for three new swine confinement buildings and additions to three existing swine confinement buildings located in the SW¹/₄ of the SW¹/₄ of Section 7, T79N, R3EW, Sheridan Township, and the E1/2 of the SE1/4 of Section 12, T79N, R2E, Hickory Grove Township, Scott County, Iowa. A copy of the draft permit is enclosed for your information. The permit would authorize Grandview Farms, Inc. to construct the confinement feeding operation structure(s) as described in the draft permit.

Pursuant to Iowa Code Section 459.304 and subrule 567 Iowa Administrative Code (IAC) 65.10(7) the Scott County Board of Supervisors may contest the draft permit by filing a timely demand for hearing before the Environmental Protection Commission. The board shall, **as soon as possible** but not later than fourteen (14) days following receipt of this letter, notify the Chief of the Water Quality Bureau by facsimile transmission at (515) 281-8895 that it **intends** to file a demand for hearing. The demand for a hearing must also be mailed to the Director, Department of Natural Resources, Henry A. Wallace Building, 502 E. Ninth Street, Des Moines, Iowa, 50319. The mailed demand for hearing shall be postmarked within thirty (30) days following receipt of this letter and accompanied by a statement that provides **all** the reasons why the permit should not be issued according to the legal requirements of Iowa Code Section 459 "Animal Agriculture Compliance Act" and 567 IAC chapter 65; legal briefs and any other documents to be considered by the commission or a statement indicating that no other documents will be submitted for the commission's consideration; and a statement indicating whether oral argument before the commission is desired. The matter would be heard by the commission at a time and location to be determined by the commission. The commission must render a decision within thirty-five (35) days from the date that the county board of supervisors files a demand for a hearing.

If you have any questions regarding this permit, please contact Paul Petitti, PE at (712) 262-4177.

Sincerely,

A handwritten signature in blue ink that reads "Paul Petitti".

PAUL PETITTI, P.E., ENVIRONMENTAL ENGINEER
FIELD SERVICES AND COMPLIANCE BUREAU

c: Thomas Dittmer, 12090 West 240th Street, Eldridge, IA 52748
Iowa DNR - Field Office #6 Attn: Jeff Prier



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

April 14, 2015

Grandview Farms, Inc.
c/o Thomas Dittmer
12090 West 240th Street
Eldridge, IA 52748

RE: Notice of Intent to Issue a Permit for Grandview Farms-Sow Site and West Sow Site
Scott County, Facility ID #59556

Dear Mr. Dittmer:

The Iowa Department of Natural Resources (IDNR) has made a preliminary determination that your application for a construction permit to build three new swine confinement buildings and additions on three existing swine confinement buildings as part of an expansion at an existing animal feeding operation satisfies the legal requirements for issuance of a permit. A draft construction permit for your facility is enclosed.

Iowa Code Section 459.304 allows the Scott County Board of Supervisors to contest this decision, as explained in the attached letter. Therefore, the IDNR's intent to issue this permit is not a final decision and you are not authorized to begin construction under the terms of the permit at this time. A final permit will be issued on the 15th day following receipt of this notice by Scott County unless the County timely submits a facsimile (FAX) notice of intent to file a demand for hearing. If the County submits a notice of intent to file a demand for hearing, you will be notified, and the permit will not be issued until it is affirmed by the Environmental Protection Commission (EPC).

You may contest the conditions of the proposed permit as provided in 567 Iowa Administrative Code 65.10(8). A copy of this subrule is enclosed.

If you have any questions regarding this draft permit, please contact Paul Petitti, PE at 712/262-4177, or our field office directly.

Sincerely,

A handwritten signature in blue ink that reads "Paul Petitti".

PAUL PETITTI, P.E. ENVIRONMENTAL ENGINEER

FIELD SERVICES AND COMPLIANCE BUREAU

c: Scott County Board of Supervisors. Attn: Tim Huey, Director, Planning and Development, 500 W. 4th Street, Davenport, IA 52801
Iowa DNR - Field Office #6 Attn: Jeff Prier

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567 Iowa Administrative Code 65.10(8)

65.10(8) Applicant's demand for hearing. The applicant may contest the department's preliminary decision to approve or disapprove an application for permit by filing a written demand for a hearing. The applicant may elect, as part of the written demand for hearing, to have the hearing conducted before the commission pursuant to paragraph 65.10(8) "a" or before an administrative law judge pursuant to paragraph 65.10(8) "b." If no such election is made, the demand for hearing shall be considered to be a request for hearing before the commission. If both the applicant and the county board of supervisors are contesting the department's preliminary decision, the applicant may request that the commission conduct the hearing on a consolidated basis.

a. Applicant demand for hearing before the commission. Due to the need for expedited scheduling, the applicant shall, as soon as possible but not later than 14 days following receipt of the department's notice of preliminary decision, notify the chief of the department's water quality bureau by facsimile transmission to (515)281-8895 that the applicant intends to file a demand for hearing. The demand for hearing shall be sent to Director, Department of Natural Resources, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319, postmarked no later than 30 days following the applicant's receipt of the department's notice of preliminary decision. If the county board of supervisors has filed a demand for hearing, the times for facsimile notification and filing a demand for hearing are extended an additional 3 business days. It is the responsibility of the applicant to communicate with the department to determine if a county demand for hearing has been filed. The demand for hearing shall include a statement setting forth all of the applicant's reasons why the application for permit should be approved or disapproved, including legal briefs and all supporting documentation, and a further statement indicating whether an oral presentation before the commission is requested.

b. Applicant contested case appeal before an administrative law judge. The applicant may contest the department's preliminary decision to approve or disapprove an application according to the contested case procedures set forth in 561—Chapter 7; however, if the county board of supervisors has demanded a hearing pursuant to subrule 65.10(7), the applicant shall provide facsimile notification to the department within the time frame set forth in 65.10(8) "a" that the applicant intends to contest the department's preliminary decision according to contested case procedures. In that event, the applicant may request that the hearings be consolidated and conducted as a contested case.

STATE OF IOWA
DEPARTMENT OF NATURAL RESOURCES
HENRY A. WALLACE BUILDING
DES MOINES, IOWA 50319

CONSTRUCTION PERMIT

Grandview Farms, Inc.
12090 West 240th Street
Eldridge, IA 52748

Permit No: **DRAFT**

File: Agriculture

RE: Sow and West Sow Site

Facility ID No.: 59556

In accordance with the provisions of Sections 459.303 and 459.304 and 567 Iowa Administrative Code (IAC) 65.7(455B), the Director of the Department of Natural Resources does hereby issue a construction permit for:

One new swine gilt confinement building #17 (51' x 240'8" x 8' deep) to house 1200 head, remove existing swine farrowing barn #4 and construct one new swine gestation confinement building #4 (61' x 120' x 8' deep) to house 300 head, one new swine farrowing confinement building #12A (124' x 275' x 8' deep) to house 480 head, a (48' x 54' x 2' deep) addition onto existing swine farrowing confinement building #5 to house 32 head, a (41' x 121' x 8' deep) addition onto existing swine gestation confinement building #6 to house 250 head, remove the west 169' of existing swine gestation barn #6 and construct a (41' x 181' x 8' deep) addition housing 400 head and convert four existing swine finisher confinement buildings to swine gestation barns as part of an expansion at an existing animal feeding operation. The manure control system consists of below the floor deep concrete pits (8' deep) or shallow pits draining to existing adjacent outside concrete manure storage tank. The site is in the SW¹/₄ of the SW¹/₄ of Section 7, T79N, R3EW, Sheridan Township, and the E¹/₂ of the SE¹/₄ of Section 12, T79N, R2E, Hickory Grove Township, Scott County, Iowa. The maximum animal unit capacity (AUC), after completion, of the entire operation, confined at one time, shall not exceed 5252 animal units (AU). The total animal capacity of the operation (maximum number of swine to be confined at any one time), after construction, is 7467 head of gestating swine, 1638 head of farrowing swine, 16 head of boar swine, 3910 head of swine gilts and 400 head of nursery swine.

This permit is issued subject to the following conditions and requirements:

1. No material change in the construction of this project shall be undertaken unless first authorized by this Department.
2. This construction permit shall expire if the authorized construction is not begun within one year. The construction of this project shall be initiated within one (1) year and completed within four (4) years of the date of issuance of this permit. A new construction permit will be required if construction is not completed within the permitted four years.

3. The design capacity of the manure storage system for the entire swine confinement feeding operation is for a total animal unit capacity of 5252 animal units and a maximum animal capacity, to be confined at any one time, of 7467 head of gestating swine, 1638 head of farrowing swine, 16 head of boar swine, 3910 head of swine gilts and 400 head of nursery swine. A new construction permit shall be obtained prior to making any additions or alterations to the manure control system, making any process changes that would materially affect the manure control system, expanding the animal capacity, or increasing the volume of manure.
4. Animals shall not be placed in the new confinement buildings and manure shall not be stored in the new concrete pits until all of the following are satisfied:
 - a) **Construction is completed;**
 - b) **Your engineer submits a certification that the below the floor concrete manure storage pits were:**
 - **Constructed in accordance with the current concrete design standards of 567 IAC-65.15(14)**
 - **Supervised by the engineer or his designee during critical points of construction and inspected by the engineer after construction**
 - **Constructed in accordance with the drainage tile removal standards of 567 IAC - 65.15(7)"b" including a report of the findings and actions taken to comply with this subrule.**
 - **Constructed in accordance with the minimum required separation distances as outlined in 567 IAC Table 6C ;**
 - c) **You must notify this Department's Field Office in Washington, Iowa, at 1-319-653-2135 prior to the initial concrete pour for your manure storage pit floors;**
 - d) **A drainage tile system has been installed around the base of the manure storage structure (deep pit) or a licensed professional engineer has submitted his/her determination of the average annual high water table at the site which shows that the groundwater table is not above the bottom of the manure storage structure (deep pit) as required in the 567 IAC 65.15(7)"b".**
 - e) **A device to allow monitoring of the water in the drainage tile lines installed around the structure to lower the groundwater table and a device to allow shutoff of the drainage tile lines shall be installed if the drainage tile lines do not have a surface outlet accessible on the property where the formed manure storage structure is located;**
 - f) **Existing Well #1 is properly abandoned and if any new wells are constructed you must furnish the completed DNR Well Record Form and a site map showing the as built dimension from the well to the nearest proposed confinement structure; and**
 - g) **You receive written approval from this Department.**
5. If karst terrain (limestone, dolomite, or other soluble rock) is found during excavation of the permitted formed manure storage structure(s), the upgraded concrete standards set forth in 567 IAC 65.15(14)"c", must be followed. Construction of an unformed manure storage structure in karst terrain, as defined in 567 IAC 65.1(455B), is prohibited. The Department must first authorize any design changes to the project, as required in condition 1 of this permit.

6. The Master Matrix evaluation of your application by Scott County received on March 13, 2015, includes scores for criteria 12, 16, 17, 19 and 25. The Master Matrix requires that a (design, operation and maintenance) plan for these criteria be included in the application and that compliance with said plan be a condition of the Permit Briefly stated:
 - a) **You shall build, maintain and operate the enhancements of your stockpile facility according to your County approved design, operation and maintenance plan. (criterion #16)**
 - b) **You shall build, maintain, and operate the formed concrete manure storage pit according to your County-approved design, operation, and maintenance plan. (criteria # 12, and 17)**
 - c) **You shall build, maintain, and operate the truck turnaround according to your County-approved design, operation, and maintenance plan. (criterion # 19)**
 - d) **You shall build, maintain, and operate the manure volume reduction (feeding and watering) systems according to your County approved design, operation, and maintenance plan. (criterion #25)**

7. The Master Matrix evaluation of your application by Scott County received on March 13, 2015, includes scores for criteria 26 “e”, 31, 32, 35 and 40. The Master Matrix requires that the limitations or actions you accepted in choosing to receive scores for these criteria must be included as conditions of the Permit. Briefly stated:
 - a) **The manure produced at this confinement operation shall be injected or incorporated on the same date it is land applied. (criterion 26 “e”)**
 - b) **An additional separation distance of 200 feet above the minimum requirement shall be maintained during the injection or same date incorporation of manure to the closest public use area. (criterion #31)**
 - c) **An additional separation distance of 200 feet above the minimum requirement shall be maintained during the injection or same date incorporation of manure to the closest educational institution, religious institution or commercial enterprise. (criterion # 32).**
 - d) **An additional separation distance of 400 feet above the minimum requirement shall be maintained during the injection or same date incorporation of manure to the closest high quality (HQ) water, high quality resource (HQR) water, or protected water area (PWA). (criterion # 35)**
 - e) **You shall follow the County approved emergency action plan in the event of an emergency and keep a copy of this plan on site. (criterion #40)**

8. Prior to entering the winter season, a sufficient volume of manure shall be removed from the manure storage structures to provide adequate volume for storage of manure produced in the livestock production facilities during the winter season.

9. All the manure removed from the manure storage facilities shall be disposed of by land application in accordance with your approved manure management plan. You must also keep your manure management plan current and maintain records sufficient to demonstrate compliance with the plan. A copy of the approved Plan shall be kept within 30 miles of the site in accordance with 567 IAC 65.17(12).
10. Water usage in the confinement facilities that result in dilution of manure entering the manure storage structures shall be minimized.
11. Dilution water shall not be added to the manure storage structures except during manure emptying operations.
12. Human sanitary wastes (including showers and laundry facilities) shall not be discharged to the manure storage structures.
13. A water use permit is required for the withdrawal or diversion of more than 25,000 gallons of water per day. Water purchased from municipal or rural water systems is excluded. Any future wells shall be located respective of regulated separation distances and installed according to county permit requirements. For more information or to verify permit requirements, contact Jim Neleigh at 1-515-725-0276.
14. No construction activities shall be initiated unless a NPDES General Permit No 2, for "Storm water discharge associated with construction activities" is obtained from this Department if the site disturbance from all construction activities **equals or exceeds one (1) acre**. For more information or to verify permit requirements contact Joe Griffin at 515-281-7017.
15. The issuance of this permit in no way relieves you the applicant of the responsibility for complying with all local, state and federal laws, ordinances, regulations and other requirements applying to the construction or operation of this facility.

Pursuant to Iowa Code Section 459.304, you have the right to appeal any condition of this permit as provided in 567 IAC 65.10(8).

Please contact Paul Petitti, PE at 712/262-4177 with any questions.

For the Department of Natural Resources:

CHUCK GIPP, DIRECTOR

By: _____ **DRAFT** _____
 ENVIRONMENTAL SERVICES DIVISION

Date: _____ **DRAFT** _____

c: Scott County Board of Supervisors. Attn: Tim Huey, Director, Planning and Development, 500 W. 4th Street, Davenport, IA 52801
 Iowa DNR - Field Office #6 Attn: Jeff Prier

BOARD OF SUPERVISORS

600 West Fourth Street
Davenport, Iowa 52801-1030

Office: (563) 326-8749
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TOM SUNDERBRUCH, Chair
JIM HANCOCK, Vice-Chair
CAROL T. EARNHARDT
DIANE HOLST
BRINSON L. KINZER

DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT DRAFT

April 23, 2015

Mr. Paul Petitti
IDNR Field Office #3
Gateway North Mall
1900 North Grand Avenue
Spencer, Iowa 51301

Re: Grandview Farms Construction Permit – Facility ID# 59556

Dear Mr. Petitti:

The Scott County Board of Supervisors has reviewed and recommended approval of the Grandview Farms – Home Sow Farm confinement State construction permit. The Board understands that it has the right to appeal the issuance of a final construction permit within 14 days after its receipt of the draft permit under Iowa Code Section 459.304 and Iowa Administrative Rule 567-65.10(7).

After consideration of this matter the Board supports allowing construction to begin as soon as possible. The Board voted unanimously to unconditionally and irrevocably waive its rights to appeal the issuance of the above-referenced construction permit and we would ask that the Iowa DNR issue the final permit to Grandview Farms immediately. The Board resolution is attached.

By waiving its rights to appeal the Grandview Farms permit, the Board does not in any way waive its rights to appeal any other confinement construction permits that may be issued by the Iowa DNR to livestock producers in Scott County in the future.

Sincerely,

Tom Sunderbruch, Chair
Scott County Board of Supervisors

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY
THE BOARD OF SUPERVISORS ON _____
DATE

SCOTT COUNTY AUDITOR

RESOLUTION

SCOTT COUNTY BOARD OF SUPERVISORS

April 23, 2015

APPROVAL OF WAIVER OF SCOTT COUNTY'S RIGHT TO APPEAL ISSUANCE OF FINAL CONSTRUCTION PERMIT BY THE IOWA DEPARTMENT OF NATURAL RESOURCES FOR THE EXPANSION OF GRANDVIEW FARMS CONFINED ANIMAL FEEDING OPERATION

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

- Section 1. The Scott County Board of Supervisors has recommended that the Iowa Department of Natural Resources (DNR) approve a State construction permit to Thomas Dittmer, dba Grandview Farms, Inc for the construction of additional confined animal feeding operation buildings at 12090 240th Street in unincorporated Scott County.
- Section 2. The Scott County Board of Supervisors reviewed the construction permit application and the manure management plan and determined that both appeared to be in compliance with the requirements of the Master Matrix, Iowa Code Section 459 and Iowa DNR rules and recommended approval of said application on March 12, 2015.
- Section 3. The Scott County Board received the Iowa DNR's Notice of Intent to issue a final permit on April 14, 2015. The Scott County Board of Supervisors hereby waives its right to appeal the issuance of the final permit within the fourteen (14) day limit from the time of receipt of notice of the issuance of the draft permit
- Section 4. The Scott County Board of Supervisors encourages the Iowa DNR to issue the Final Permit as soon as possible.
- Section 5. The Scott County Board of Supervisors authorizes the Board Chairman to notify the Iowa DNR of this waiver.
- Section 6. This resolution shall take effect immediately.