

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN INTERIM ORDER concerning the application by Peter H. Schouten, Sr., and Nova D. Schouten for new Texas Pollutant Discharge Elimination System Permit No. WQ0005387000; TCEQ Docket No. 2023-1586-AGR.

On April 12, 2024, the Texas Commission on Environmental Quality (Commission) considered during its open meeting requests for hearing filed by James Karels and Clifford Norris concerning the application by Peter H. Schouten, Sr., and Nova D. Schouten (Applicants) for new Texas Pollutant Discharge Elimination System Permit No. WQ0005387000, which authorizes the Applicants to operate under an individual Concentrated Animal Feeding Operation permit to confine a maximum of 2,000 head of dairy cattle replacement heifers, none of which will be milking, with 43 acres of total land application area for manure and associated wastewater. The Facility is located on the north side of State Highway (SH) 6 on County Road 2495, which is nearly 5.5 miles east of the intersection of SH 6 and U.S. Highway 281 in Bosque County, Texas. The requests for hearing were evaluated under the requirements in the applicable statutes and Commission rules, including 30 Texas Administrative Code (TAC) Chapter 55. The Commission also considered the responses to the requests for hearing filed by the Executive Director and the Office of Public Interest Counsel; all timely public comment; and the Executive Director's Response to Comment.

After evaluation of all relevant filings, the Commission determined that James Karels and Clifford Norris are affected persons under applicable law and their hearing requests should be granted.

The Commission next determined whether the requests for hearing raised disputed issues of fact or mixed questions of fact and law that were raised by the affected persons during the comment period, and that are relevant and material to its decision on the application. The Commission determined that the following issues met those requirements and directed that they be referred to the State Office of Administrative Hearings (SOAH): (A) Whether the Draft Permit contains sufficient provisions to prevent nuisance conditions, including odors and flies, in accordance with applicable TCEQ rules; B) Whether the Draft Permit contains sufficient provisions to prevent groundwater contamination and wastewater runoff from the Facility in accordance with applicable TCEQ rules; and C) Whether the Draft Permit is adequately protective of air quality and human health in accordance with applicable TCEQ rules.

Finally, pursuant to 30 TAC § 50.115(d)(2), the Commission specified that the maximum duration of the contested case hearing shall be 180 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH.


NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

- (1) The hearing requests filed by James Karels and Clifford Norris are hereby GRANTED;
- (2) The following issues are REFERRED to SOAH for a contested case hearing on the application:
 - (A) Whether the Draft Permit contains sufficient provisions to prevent nuisance conditions, including odors and flies, in accordance with applicable TCEQ rules;
 - B) Whether the Draft Permit contains sufficient provisions to prevent groundwater

contamination and wastewater runoff from the Facility in accordance with applicable TCEQ rules; and

- C) Whether the Draft Permit is adequately protective of air quality and human health in accordance with applicable TCEQ rules;
- (3) This matter is referred to the Commission's Alternative Dispute Resolution Program concurrent with the SOAH scheduling process;
- (4) The maximum duration of the hearing is set at 180 days from the first day of the preliminary hearing to the date the proposal for decision is issued by SOAH; and
- (5) If any provision, sentence, clause or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



For the Commission

4/23/24

Date Signed