

MEMORANDUM

To: Board of County Commissioners

Cc: Ben Scott
Scott Ward

From: Joel F. Foreman



Re: **Huynh Chicken Farm Project, Fort White, FL**

Date: October 21, 2015

Following the Board's meeting on October 15th, I have further investigated the DEP's position with respect to requiring a waste water permit at this proposed facility. I have spoken with Mary K. Smith and Tom Kallemeyn of the DEP. Ms. Smith was contacted to discuss DEP's rules and regulations for issuance of these permits while Mr. Kallemeyn was contacted as he issues these permits for DEP.

Ms. Smith stated that the key consideration for the DEP in issuing waste water permits is the likelihood of runoff from in the proposed operation of the farm. For example, dairy farms clearly contemplate runoff in connection with operations to maintain and clean the dairy stock, process the product, and keep the equipment clean. Because a dairy operation usually requires substantial daily runoff, the DEP typically requires dairies to secure a waste water permit.

Conversely, broiler operations like the one contemplated in Fort White have a lower probability of runoff. The water consumed at the operation is primarily used to water the chickens. What waste the chickens do generate is to be collected and shipped offsite. Substantial runoff is not anticipated to be typical of the broiler operation.

Ms. Smith further explained that whether or not a facility is categorized as a concentrated animal feeding operation ("CAFO") is not, in and of itself, determinative of whether or not a permit will be required. Rather, she said that courts require that there be further inquiry about the actual operation of the farm facility before requiring a permit. It is that analysis that has led the DEP to conclude, at this point, that no waste water permit is required.

Ms. Smith suggested that I contact Tom Kallemeyn for his analysis of this project and whether he would require issuance of a waste water permit.

I contacted Mr. Kallemeyn and briefed him on the concerns shared by you and the public at the October 15th meeting. He indicated that he was aware of those concerns as they had been communicated by several concerned citizens in the Fort White area. He echoed Ms. Smith's analysis of DEP's rules with respect to requiring issuance of a waste water permit. Notwithstanding that position, however, Mr. Kallemeyn shared that he had conversations with Mrs. Huynh and that, as of my conversation with Mr. Kallemeyn, she was willing to cooperate with him in making a formal determination as to the necessity for a waste water permit. Mr. Kallemeyn said that this process can take some time, however, he would keep me posted as he moved through the process.

Because this review process is voluntary, he cautioned that the land owner could cease cooperation at any time which would make his determination more difficult. I asked Mr. Kallemeyn whether the County could request such a determination if the owner stopped cooperating. If the County were to make such a request, he said he would attempt to honor it.

In summary, DEP's determination that a waste water permit is not required for this site seems to be supported by DEP's policies and procedures. DEP is presently cooperating with the land owner to reach a formal determination as to whether a waste water permit will be required. This process may take several weeks to complete. I will update you with a status of that determination as it becomes known to me.

Should you have any questions or concerns in the meantime, please do not hesitate to contact me at your convenience.