

HEARING OFFICER'S REPORT

Regarding: Department of Special Services –
New Castle County, Delaware: Southern Sewer Service Area
Water Farm #2 – Phase II: Wastewater Treatment &
Disposal Facilities

Lisa A. Vest
Hearing Officer

January 12, 2005

I. Background Findings:

On Thursday, December 2, 2004, the Department of Natural Resources and Environmental Control held a public hearing in the Community Room at the New Castle Southern Patrol Building, 605 North Broad Street in Middletown, Delaware, in order to receive comments on Phase II of an application submitted by New Castle County's Department of Social Services requesting a permit to construct a 1.6 million gallon per day (mgd) wastewater treatment and spray irrigation facility called Water Farm 2. Water Farm 2 would provide central sewer service to designated areas of Southern New Castle County. Phase II encompasses the construction of the wastewater treatment and disposal facilities, including irrigation pivots. The treated effluent will be spray irrigated onto approximately 320 acres of agricultural land located north of Rt. 429; south of Spring Mill Branch and Shallcross Lake; east of Conrail Railroad Tracks and Rt. 301; extending partly east of Shallcross Lake Road, bordered by Drawyers Creek and Woodlawn Estates in New Castle County, Delaware.

It should be noted that Secretary Hughes issued Order No. 2004-W-0057, formally approving Phase I of this project on November 29, 2004. Phase I encompasses the construction of two earthen storage lagoons with a combined total capacity of 194 million gallons and associated appurtenances. The public hearing which took place on

December 2, 2004 was limited to receiving public comment on only Phase II of the aforementioned proposed project, as described above.

As was the case during the public hearing process surrounding Phase I of this project, concern has been voiced by the neighboring community regarding this matter. These concerns, voiced as comments from various members of the public that were voiced at the hearing itself, and the Department's response to the same, will all be addressed in greater detail below. Proper notice of the hearing was provided, as required by law.

II. Summary of Record:

Following the Department's introduction of ten exhibits to be incorporated into the public record concerning this matter (application, supporting documents, hearing notice, etc.), New Castle County then provided several witnesses to explain the project and its likely environmental impact. Following the Applicant's presentation at the hearing, the Hearing Officer opened the floor to receive public comment regarding this project. Although several members of the public voiced their opinions regarding this phase of the Middletown Water Farm project, no substantive concerns were raised, nor was any testimony provided either before or during the hearing to indicate the construction of Water Farm 2 would have any adverse impact on public health or the environment.

The various phases of this permitting matter (i.e., pre-hearing, post-hearing, and the hearing itself) generated considerable testimony, comment and information from all parties involved with regard to this proposed project. All of this documentation concerning the Water Farm 2 – Phase II - permit application has been procured by the Division of Water Resources, Ground Water Discharges Section, and Ron Graeber (Program Manager) and Marlene Baust (Environmental Engineer) have once again provided a detailed and extensive Report to the Hearing Officer dated December 17, 2004. This Report encompasses the full range of comment contained in the record, including those from both the public and the Applicant. Each comment was meticulously organized according to its source (e.g., transcript, exhibit, letter, etc.), followed by a thorough and rational discussion of each comment based on the record.

After reviewing Mr. Graeber and Ms. Baust's Report, it is my view that they have done an excellent job of identifying all of the relevant issues and discussing them in a thorough and balanced manner which accurately reflects the information in the record. Therefore, the Secretary may get an in-depth understanding of this record by reading the Department's Report to the Hearing Officer, which is expressly incorporated into this report and attached hereto for that purpose.

III. Conclusions and Recommended Findings:

As noted above, New Castle County has submitted the permit application at this time for Phase II of the proposed Water Farm 2 project. Again, no substantial concerns were raised, nor was any testimony provided to the Department during any phase of this public hearing process to indicate the proposed construction of this project would have any adverse impact on either public health or the environment. Furthermore, New Castle County staff demonstrated a genuine need to construct Water Farm 2, citing commitments made to provide sewer service to future schools and housing developments.

In the absence of any testimony that demonstrated the proposed Phase II of this project should not be constructed, I recommend issuance of the Applicant's permit, consistent with the application plans and specifications, and that the following findings be made:

1. Proper notice of this hearing was provided as required by law.
2. As with Phase I of the Water Farm 2 project, Phase II has been designed to minimize any environmental impacts as summarized in the Applicant's testimony as referenced within the Department's Report to the Hearing Officer, which has been expressly incorporated into this report.

3. No substantial concerns were raised, nor was any testimony provided to the Department during any phase of this public hearing process to indicate the proposed construction of this project would have any adverse impact on either public health or the environment.

4. The record demonstrates compliance with applicable Department requirements regarding the construction of such wastewater treatment and disposal facilities.

LISA A. VEST
Hearing Officer