

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA OFFICE OF
ENVIRONMENTAL ADJUDICATION

IN THE MATTER OF:)

OBJECTION TO ISSUANCE OF CONFINED)
FEEDING OPERATION PERMIT ISSUED)
FARM ID #6902 / ANIMAL WASTE AW#6568)
PINE RIDGE PORK, LLC)
MACY, MIAMI COUNTY, INDIANA)

Cause No. 16-S-J-4911

Ray Reichard,)
)
Petitioner,)
Pine Ridge Pork, LLC,)
)
Permittee/Respondent,)
Indiana Department of Environmental Management,)
Respondent.)

RESPONSE AND OBJECTION TO PETITIONER'S AUGUST 17, 2016 LETTER

Pine Ridge Pork, LLC, by counsel, files this Response and Objection to the August 17, 2016 letter filed by Petitioner, Ray Reichard, and respectfully renews its request that the Environmental Law Judge ("ELJ") in this matter dismiss this proceeding. Pine Ridge Pork offers the following:

1. On August 5, 2016, Pine Ridge Pork filed its Verified Motion to Dismiss this matter. The motion was based on Mr. Reichard's failure to comply with the June 28, 2016 Notice of Incomplete Filing and Order ("Order") issued by the Indiana Office of Environmental Adjudication ("Court").

2. On August 11, 2016, the Court issued a Notice of Proposed Order of Dismissal ("Notice") and informed Mr. Reichard that he may file a written motion within seven days after service of the Notice identifying his attorney(s), if he chose to engage legal counsel, and asking the Court not to dismiss the matter with his reasons justifying the request.

3. Mr. Reichard appears not to have engaged an attorney, but he did submit a letter dated August 17, 2016 (“August 17 Letter”) in response to the Notice.

4. In the August 17 Letter, Mr. Reichard claims that after receiving the Court’s Order, he sent a certified letter to Pine Ridge Pork (and to Donald Snemis at IDEM). That much is true and Pine Ridge Pork accepted service of the certified letter from Mr. Reichard on July 14, 2016.

5. Mr. Reichard goes on in his August 17 Letter to state: “We are sending another copy of all the information.” Based on this statement, Mr. Reichard appears to claim that all of the documents included with the August 17 Letter, which purport to be a complete copy of his Petition, were included in the certified letter he sent to Pine Ridge Pork on July 12, 2016. That, however, is not true and Pine Ridge Pork objects to Mr. Reichard’s statement.

6. The certified letter Mr. Reichard sent to Pine Ridge Pork in response to the Order once again¹ only included the first two pages of his Petition, although he did provide his complete address and telephone number. (See attached Exhibit 1 – “Affidavit of Aaron See”.)

7. The Court’s Order was very clear. Mr. Reichard was to send a copy of his Petition to Pine Ridge Pork and IDEM within 30 days of receiving the Order. A copy of the Petition necessarily includes all supporting documents filed with the Petition to allow the parties to know exactly what is being claimed by Mr. Reichard. And, 315 IAC 1-3-3(b)(1) requires Mr. Reichard to serve those documents on all parties. Without the supporting documentation, neither Pine Ridge Pork nor IDEM can fully address Mr. Reichard’s claims and due process is frustrated. Mr. Reichard failed to comply with the Court’s Order.

¹ Mr. Reichard only provided the first two pages of his Petition to Pine Ridge Pork when he first filed the Petition.

8. The Order also instructed Mr. Reichard to file all documents and pleadings with the Court. He failed to comply with this requirement and offers no justification for his noncompliance in the August 17 Letter.

9. As Mr. Reichard failed to provide a complete copy of the Petition to Pine Ridge Pork, his statement in the August 17 Letter that “it has been proved that prior petitions were received and signed for” is inaccurate, at best, and intentionally misleading at worst.

10. Perhaps Mr. Reichard misunderstood or did not know what “A copy of the Petition” meant. But, that is no excuse for noncompliance with this basic requirement as Mr. Reichard is held to the same standard as licensed lawyers² and licensed lawyers are expected to know and comply with filing and service requirements.

11. As Mr. Reichard failed to comply with 315 IAC 1-3-2 and the Court’s Order, and has provided no grounds excusing his conduct, the Court should dismiss this matter.

WHEREFORE, Pine Ridge Pork, LLC, by counsel, respectfully requests that the ELJ enter a Dismissal Order and dismiss this cause in its entirety, and grant all other appropriate relief.

Respectfully submitted,



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ATTORNEYS FOR PINE RIDGE PORK, LLC

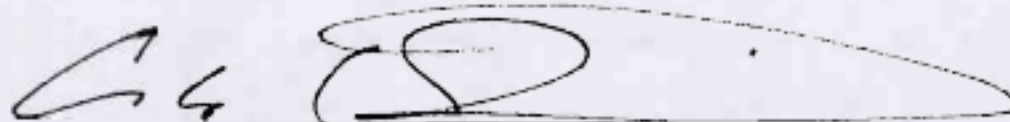
² *Goosens v. Goosens*, 829 N.E.2d 36, 43 (Ind. Ct. App. 2005).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document has been served
this 30th day of August, 2016, via First Class U.S. Mail to the following:

Donald Snemis, Esq.
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue, Room 1307
Indianapolis, Indiana 46204

Ray Reichard
12231 N. 100 W.
Macy, Indiana 46951



Alex C. Intermill

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COUNTY OF MARION)

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AFFIDAVIT OF AARON SEE

I, Aaron See, depose and say as follows:

1. I am over the age of 18 and competent to testify as to the matters contained in this Affidavit.

2. I have personal knowledge regarding the matters contained in this Affidavit.

3. I am the owner of Pine Ridge Pork, LLC.

4. On July 14, 2016, Pine Ridge Pork, LLC received a certified letter from Mr. Ray Reichard concerning the above-captioned matter. The letter contained only the two pages that are attached to this affidavit as "Exhibit A."

5. Pine Ridge Pork, LLC received no further written correspondence from Mr. Reichard until approximately August 19, 2016 when we received his response to the Notice of Proposed Order of Dismissal dated August 17, 2016.

6. To date, Mr. Reichard has not provided the complete copy of his petition that initiated this Cause, as filed with the Indiana Office of Environmental Adjudication.

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.



Aaron See
Pine Ridge Pork, LLC

Date: 8-24-2016

To Whom It May Concern:

The following letter is in response to a permit being approved for barn number ID #6902 (Pine Ridge Pork).

Due to concerns over water issues and environmental issues, I am requesting a hearing for appeal. The following bullet points are just a few of the many issues happening in Miami County and state wide.

- The owner, Wesley Leedy, has had several "complaints" and violations. In 2012, he had a manure violation for spilling on the road at the corner of 1000N and 200W, Macy Indiana. In 2014, he had another manure violation for spilling at the farms of Carl Lowe and Tom Shriver. In 2015, another manure violation, which was called into the State Chemists office by Gilford Miller. April 28, 2015, there was also a spill into the Weesaw creek.
- During one of these spills Wesley Leedy was heard bragging that he couldn't believe he had not been turned in, but then later received notification on the spill being reported and became irate.
- In Miami County there is a list of bridges that are in need of repair and one of these bridges is on 100 W, where is at the proposed site of these barns. This bridge is also over one of Miami Countys many endangered waterways. All waterways are categorized as a 5A or 5B.
- There are known manure pits leaking water in, so, if water is leaking in, then water has to be leaking out.
- Below the hill of the proposed site is muck ground, which already has standing water in spots.
- The proposed site is too close to the Weesaw Creek.
- I currently raise produce and flowers that will be affected by these barns being built. Odor will affect the flowers I grow for public sale.
- I will have to test my water every month to make sure there is no contamination, and it takes two weeks to get the results back. I will have to do this so I can make sure that no one gets sick. To have the water tested, it costs \$75, and having it tested every month, will cost a fortune.
- IDEM and every county in Indiana is ignoring the Clean Water Act of 1972.

For these reasons and others, I ask for an appeal to be granted and I be given a chance to object to the building of these two CAFO barns being built.

Yours truly,

Ray Reichard

12231n 100n
Macy In 46951

[REDACTED]

From: Ray Reichard
12231 N 100 W
Macy, IN 46951

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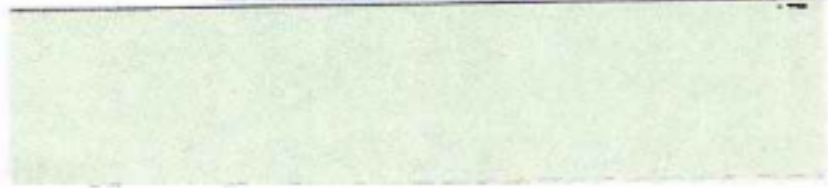


Ray Reichard

To: Aaron See
Pine Ridge Pork, LLC
Pine Valley Pork
8716 N CR 100 W
Macy, IN 46951

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