

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS
CIVIL DIVISION

ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

PLAINTIFF

V.

CASE NO.: 51CV-17-51-1

PATRICK SANDERS AND
STARLINDA SANDERS

DEFENDANTS

PERMANENT INJUNCTION

Comes before the court the plaintiff, the Arkansas Department of Environmental Quality, by and through its attorneys, Tracy R. Rothermel and Stacie R. Wassell, and the defendants, Patrick Sanders and Starlinda Sanders, by and through their attorney, Robert Ginnaven, to review the progress and status of the defendants' compliance with the orders of this court issued from the hearing held November 16 of last year. After hearing the testimony and reviewing the exhibits, the Court finds:

1. This matter was first brought to the court November 16, 2017, by the plaintiff asking for a preliminary and permanent injunction to shut down the defendants' hog farm. The plaintiff alleged the defendants were operating an un-permitted liquid waste system within the Buffalo National River and Bull Shoal Lake watersheds. The defendants disputed this allegation and during their testimony candidly admitted that although they practice a "dry litter" system for waste management, due to their inability this past summer to sell the hogs when ready, their operation was overrun. As a result they were forced to release hogs from two (2) of the barns causing a build up of animal waste causing run off from their property toward Cedar Creek.

2. The court understands the need to maintain clean water and protect our state's natural resources, but this need must be balanced against the rights of land owners to use their land to

support themselves and their families. Although the plaintiff presented a compelling case, it failed to prove the defendants are operating a liquid waste system which would require a permit. The court finds the testimony of the defendants to be credible that they are operating a dry-litter system that went very awry.

3. The defendants have been forthright about their actions and admitted they created this situation by releasing the hogs and have taken responsibility for their actions acknowledging the grave danger to the environment if allowed to continue. The court believes the defendants' testimony expressing their remorse for this whole debacle. The plaintiff's witness testified that the defendants have cooperated and have not been hostile to the department. The court finds that the defendants have made good faith efforts to comply with the court's order, and have made significant progress toward cleaning the affected land that was contaminated by the swine waste this past summer.

4. All the hogs are now housed and no longer allowed outside the confines of the barns. There was evidence that two(2) or three (3) hogs were observed outside the barns, but the court finds the testimony of the defendant, Patrick Sanders, to be credible that these fugitive hogs were soon captured and returned to a barn.

5. The plaintiff's witness testified, after his multiple inspections of the property since the last hearing, he had not observed runoff from the property.

6. The Plaintiff agrees that the defendants have cleaned and re-vegetated the berms around barns 2 and 6 but still need to re-vegetate the area between the barn #6 and the County Road 50.

7. The defendants' have made good faith efforts to confer with the appropriate agency to determine the requirements for the bottom and sides of the stacking barns to hold litter and prevent runoff but have not received any helpful feedback. However during the hearing the parties agreed,

and the court hereby orders, the defendants will replace the one stacking barn's wood walls to cinder blocks. The second stacking barn already has the cinder block walls so no action is required, except both barns should be barricaded to prevent livestock from entering.

8. The defendants as of yet have not been able to empty the stacking barns' contents due to the lack of the proper equipment to process the litter because of its dense hay content, and other machinery than what is normally used for this process is needed. Mr. Sanders testified his contractor has now located the proper equipment and the litter should be processed within the next few weeks.

IT IS THEREFOR ORDERED, that the defendants are permanently enjoined:

a. from releasing the hogs from any of the barns to roam about the property allowing animal waste to accumulate causing runoff from their property;

b. the defendants shall use the dry litter disposal system for the management and disposal of the animal waste;

c. the stacking barns' contents will be emptied in a lawful manner by March 15th;

d. the area between barn #6 and County Road 50 shall be re-vegetated in such a manner to act as a natural anti erosion system and be in place by this spring's growing season;

e. the defendants will replace the one stacking barn's wood walls with cinder blocks and both barns should be barricaded to prevent livestock from entering; and,

f. the defendants shall have a Nutrient Management Plan in place by March 15th.

IT IS SO ORDERED.



Gail INMAN-CAMPBELL,
CIRCUIT JUDGE

DATE: 02-02-2018

