NEW HOUSE CONSTRUCTION PERMITTING TIPS FOR TN


In working with TDEC these past couple of years, to help better streamline the approval and permitting processes for Construction General Permits (CGPs) and the associated SWPPPs (Storm Water Pollution Prevention Plans) in Tennessee, we've learned that TDEC personnel from the respective regional offices can be requested to do site visits. This is very highly recommended as the starting point for the entire site selection and permitting process to best avoid costly delays. The contact info for your regional TDEC field office (EFO) can be found at http://tn.gov/environment/field-offices.shtml to ask for a site visit by the person approving and processing SWPPPs for poultry operations. These folks are very busy but it is not unreasonable to ask to line up a visit within two weeks of your call.

One of the biggest setbacks in obtaining a CGP is because of subsequent discrepancies in wetlands determinations, mapping and in addressing previously disturbed areas (areas that have been farmed or physically altered otherwise that are not suspected or known to be classified as wetlands, or may be believed to no longer classify as wetlands). We have additionally learned of the invaluable assistance a Qualified Hydrology Professional (QHP) can provide in heading off wetlands determination & mapping discrepancies that could lead to site rejection, the need for new SWPPPs and major permitting delays.

A written assessment by a QHP licensed in TN is highly regarded by TDEC; further investigation or wetlands assessment is typically not needed when the services of a QHP are properly utilized. Without the involvement of a QHP, and if TDEC later determines (up to 30 days after the NOI and SWPPP have been submitted) there to be a wetlands issue to address, it could then add months to the permitting process. A new site might even have to be selected that would require additional time and expense for a new SWPPP to be written, submitted, reviewed, have deficiencies addressed and eventually be approved.

When a construction project is financed through a FSA guaranteed loan, additional environmental assessments are required by the State Historical Preservation Organization (SHPO), Fish & Wildlife (to check for bat habitats, for example) and other agencies under the National Environmental Policy Act (NEPA), so make sure your lender gets FSA involved from day one as well when applicable. These reviews can be the most lengthy of all, especially if there is a concern raised or identified.

From the moment things get lined out with the 1) Ag lender and 2) the integrator to proceed with new construction, everyone is anxious to start pushing dirt at the pre-selected site that has not yet been officially approved. Involving 3) the right person from your EFO who approves the SWPPPs, 4) a sharp QHP familiar with poultry operations who has a great working relationship with TDEC, 5) your local DC (District Conservationist) with NRCS, 6) the person writing your SWPPP, 7) your contractor and the person lined up to do your dirt work, and 8) a TSP (technical service provider) if required to have a NMP or cNMP for a CAFO permit and/or FSA loan, is a good group to bring together at the proposed site to expedite getting a site approved and the permitting processes well underway. In working with your point of contact with the integrator to line folks up, focus on getting your EFO there as top priority and the rest will hopefully adjust their calendars to be there as requested. Get with your DC in advance and make sure you have the right maps on hand for that initial visit.

Whatever you do, please don’t wait for one thing to get handled before tackling the next thing on the permitting checklist(s), for time is of essence. The integrator is counting on placing birds by a certain date or timeframe, and nobody wants to be paying interest on a project that isn’t moving forward. The right (multi-tasking and super-efficient) TSP working closely with your Ag lender and the designated person over new construction with the integrator can all work together to smoothly handle everything efficiently and in the least amount of time. It is also well advised to indicate & authorize on all NOIs (for CAFO permits too when required) to include your lender and TSP so that they too can receive/see everything sent to you. This is especially important to those who do not regularly check (or have) email, or open their mail daily during this critical period in getting possible deficiencies addressed and permits issued in a timely fashion.