

PLEASE PRINT CLEARLY OR TYPE

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF (1) New Hanover

(2) Environmental Community Action Network and)
Cape Fear River Watch)
))
PETITIONER,)
))
v.)
))
(3) North Carolina Division of Environmental Quality –)
Division of Water Resources)
))
RESPONDENT.)
(The State agency or board about which you are complaining))

**PETITION
FOR A
CONTESTED CASE HEARING**

I hereby ask for a contested case hearing as provided for by North Carolina General Statute § 150B-23 because the Respondent has:

Environmental Justice Community Action Network and Cape Fear River Watch hereby request a contested case hearing as provided by N.C. Gen. Stat. § 143-215.1 and § 150B-23 to challenge actions of the North Carolina Department of Environmental Quality – Division of Water Resources (DEQ) in issuing Permit No. AWG400000 (Exhibit 1), which will authorize any eligible existing hog operation, of which there are over 2,000, to install and operate an anaerobic digester and biogas collection equipment, store digested hog waste in open cess pits, and dispose of the waste by spraying it on fields. The Permit allows eligible hog operations to use an unsafe, antiquated waste storage and disposal method that pollutes the air, water, and harms nearby communities. In issuing the Permit, DEQ violated N.C. Gen. Stat. § 143-215.1(b)(2) and 15A N.C. Admin. Code 2T.0105(f), which mandate that DEQ may only permit the practicable waste treatment and disposal alternative with the least adverse impact on the environment.

Environmental Justice Community Action Network, Cape Fear River Watch, and their members are persons aggrieved and substantially prejudiced under N.C. Gen. Stat. § 150B-23 as a result of DEQ’s unlawful issuance of Permit No. AWG400000. Environmental Justice Community Action Network is a not-for-profit organization based in Clinton, N.C., with a mission to achieve environmental justice and provide resources to communities who are working to improve the environment where they live, work, and play. Cape Fear River Watch is a not-for-profit organization based in Wilmington, N.C., with a mission to protect and improve water quality of the Cape Fear River Basin for all people.

(4) Amount in controversy \$ n/a (if applicable)
(If more space is needed, attach additional pages.)

(5) Because of these facts, the State agency or board has: (check at least one from each column)
___ deprived me of property; x exceeded its authority or jurisdiction;
___ ordered me to pay a fine or civil penalty; or x acted erroneously;
x otherwise substantially prejudiced my rights; **AND** x failed to use proper procedure;
x acted arbitrarily or capriciously; or
x failed to act as required by law or rule.

(6) Date: July 28, 2022 (7) Your phone number: (919) 967-1450

(8) Print your full address: 601 W Rosemary Street, Suite 220 Chapel Hill North Carolina 27516
(street address/p.o. box) (city) (state) (zip)

(9) Print your name: Maia Hutt

(10) Your signature: Maria Plutt

You must mail or deliver a **COPY** of this Petition to the State agency or board named on line (3) of this form. You should contact the agency or board to determine the name of the person to be served.

CERTIFICATE OF SERVICE

I certify that this Petition has been served on the State agency or board named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed **OR** by delivering it to the named agency or board:

(11) Bill Lane (name of person served) (12) N.C. Department of Environmental Quality (State agency or board listed on line 3)
(13) 217 West Jones Street Raleigh North Carolina 27603
(street address/p.o. box) (city) (state) (zip code)

(14) This the 28th day of July, 2022.

(15) Maria Plutt
(your signature)

When you have completed this form, you **MUST** mail or deliver the **ORIGINAL** to the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh, NC 27609.

This box for OAH use only.

<p>Amount Paid \$ _____</p> <p><input type="checkbox"/> h – receipt number _____</p> <p><input type="checkbox"/></p> <p>Check number _____</p>	<p>[QGLJHQWPEWVERPSOHWHIRUPZ] []</p> <p><input type="checkbox"/></p> <p>Received by: _____</p>
--	---

INSTRUCTIONS FOR FORM H-06 “PETITION FOR A CONTESTED CASE” AND “CERTIFICATE OF SERVICE”

FILL IN BLANKS:

Fill in your county of residence (1), print your name on line (2), and the name of the agency or board about which you are complaining on line (3). Be sure to briefly state the facts about your case. Enter the dollar amount in controversy, if applicable on line (4). Check all of the items that apply in section (5). Enter the date on line (6), your telephone number on line (7), your address on line (8), print your name on line (9), and **sign your name on line (10)**.

CERTIFICATE OF SERVICE:

You must mail or deliver a copy of your completed petition to the agency or board named on line (3) and complete the “certificate of service” section on your petition, entering the name of the person to whom you mailed or delivered the petition on line (11). You should contact the agency or board to determine the name of the person to be served. Print the name of the state agency involved on line (12), the address of the agency or board on line (13), the date on line (14), and **sign your name on line (15)**.

FILING FEE

Filing fees can be paid by either, cash, money order, certified check or checks drawn on attorney trust accounts. The fee must be paid at the time the petition is filed. Checks should be made payable to the Office of Administrative Hearings. If your case is involving a mandated federal cause of action there is no fee. The filing fee for Certificate of Need cases is \$125.00 as well as Environmental issues concerning Clean Water Act permitting, Clean Air Act permitting, Animal Waste Management System permitting, and permitting for water use within capacity use areas and any case when the amount in controversy is \$50,000.00 or more. All other case types shall pay \$20.00.

FILING YOUR PETITION WITH THE OFFICE OF ADMINISTRATIVE HEARINGS:

Your contested case will commence as soon as you file your completed original petition, properly signed and appropriate fee paid, with the Office of Administrative Hearings. Below is the mailing and physical address:

Office of Administrative Hearings 1711 New Hope Church Road Raleigh, NC 27609

If you mail this form, the case commences when it is **received and filed** in this office.

You may file your petition by fax during normal business hours by faxing the petition to the Clerk's Office at (984) 236-1871.

You may file your petition by electronic mail by an attached file either in PDF format or a document that is compatible with or convertible to the most recent version of Word for Windows by sending the

electronic transmission to oah.clerks@oah.nc.gov. Electronic mail without attached file shall not constitute a valid filing.