

DECISION ON AN APPLICATION FILED PURSUANT TO THE NEW JERSEY RIGHT TO FARM ACT FOR A DETERMINATION OF A SITE SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE (AMP)

WHEREAS, the Right to Farm Act, N.J.S.A. 4:1C-1 et.seq., was passed by the NJ Legislature in 1983 and amended in 1998; the Act protects responsible commercial farmers from public and private nuisance actions and unduly restrictive municipal regulations; and

WHEREAS, pursuant to the said Right to Farm Act, N.J.S.A. 4:1C-1 et. seq., and the State Agriculture Development Committee (hereinafter referred to as "SADC") regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may file a request to the County Agriculture Development Board to determine if his or her operation constitutes a generally accepted agricultural management practice ("AMP") or to determine if his or her operation complies with a specific AMP if the SADC has promulgated one related to the activity in question; and

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-10.1, and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, any person aggrieved by the operation of a commercial farm shall file a complaint with the applicable County Agriculture Development Board prior to filing an action in court, subject to meeting the eligibility criteria under the said Act; and

WHEREAS, to be eligible for Right to Farm protection, the farm must:

1. Meet the definition of "commercial farm" at N.J.S.A. 4:1C-3. A "commercial farm" is a farm operation larger than five acres producing agricultural products worth at least \$2,500.00 annually and satisfying the eligibility criteria for farmland assessment. For farms smaller than five acres, the annual production requirement is \$50,000.00 and the farm must satisfy the eligibility requirements as specified for farmland assessment. A commercial farm may be comprised of multiple parcels, contiguous or non-contiguous, and operated together as a single enterprise;
2. Be located in a zone that permits agriculture, or the farm must have been in operation as of July 2, 1998;
3. Conform with generally accepted agricultural management practices;
4. Comply with all relevant federal and state statutes and regulations; and
5. Not pose a direct threat to public health and safety.

WHEREAS, Richard and Lorraine Slifer, as the owners and operators of a farm located at 62 Schofield Road, West Milford, NJ, Block: 10602; Lot: 39, referenced on the tax map of the Township of West Milford (hereinafter referred to as "township"), applied for a threshold determination under the Right to Farm Act regarding site specific agricultural management practices in connection with the above referenced property involving alleged wood chipping /timber

harvesting operations; and

WHEREAS, a site review was conducted by the PCADB members and staff in which the Board members and staff present during the site visit made observations concerning the nature and extent of the agricultural activity occurring; and

WHEREAS, public hearings that were properly noticed took place before the Passaic County Agricultural Board on the following dates: January 4, 2011, February 15, 2011, and April 5, 2011; and

WHEREAS, at the January 4, 2011, hearing, Richard Slifer, Lorraine Slifer and Joe Brown testified in support of the application, and the following objectors testified against the application: Dale Meadows, Vincent J. Lupo, Township Zoning Officer, Gina Cumello, and Beth Kelly.

WHEREAS, at the February 15, 2011, hearing, Richard Slifer and Lorraine Slifer, both continued to testify in support of their application and the following objectors testified against the application: Vincent James Lupo, Dale Meadows, Dirk A. Stevenson, Edward List, and Beth Kelly.

WHEREAS, at the April 5, 2011, hearing, the County Agricultural Development Board conducted meaningful deliberations and found that the jurisdictional requirements had not been met by the applicant, based on the testimony received; the fact that the property did not have farmland assessment at the time the application was heard by the Board, which is a qualification needed for protection under the Right to Farm Act; that the applicant had not sufficiently

proved enough eligible agricultural production to meet the requirements; and that the applicant does not have a management plan for the farm; and

WHEREAS, nevertheless, the County Agricultural Development Board opined that the agricultural activities as observed and in operation within certain limits did not appear to be in violation of or contrary to the generally acceptable agricultural management practices.

NOW, THEREFORE, BE IT RESOLVED that the Passaic County Agricultural Development Board, as a matter of law, hereby dismisses, without prejudice, the site specific agricultural management practice application based on the aforesaid determination set forth herein.

APPROVED AS TO FORM AND
LEGALITY:



WILLIAM J. PASCRELL, III
PASSAIC COUNTY COUNSEL



CARL QUAZZA, CHAIR
PASSAIC COUNTY AGRICULTURAL
DEVELOPMENT BOARD