

RESOLUTION

**RE: Right to Farm, N.J.A.C. 2:76-2.2
Request for Site Specific Agricultural Management Practices
In the Matter of Oak Grove Plantation / High Hope Hogs
Block 42, lot 4; Township of Franklin, County of Hunterdon**

WHEREAS:

On June 23, 2008, a Right to Farm (“RTF”) Application for a Site Specific Agricultural Management Practice determination was submitted by to the Hunterdon County Agriculture Development Board (“CADB”), by Ted Blew, Susan Blew and Eric Blew, owners of Oak Grove Plantation a/k/a High Hope Hogs (Block 42, Lot 4), a farm that raises hogs and grows vegetables, fruits, flowers, grain and hay. The RTF Application requested approval from the CADB for the following: 1) the solar panel array system which generated electricity for agricultural operations and the residence; 2) vegetable crops grown and sold; 3) fruit crops grown and sold; 4) field crops grown and sold; 5) hogs raised and sold which is a farrow to finish operation; 6) sweet corn grown and sold; 7) irrigation of all crops; 8) Manure Nutrient Management Plan; 9) greenhouse crop production; 10) building usage for storing crops, storing equipment, maintaining equipment and house livestock; 11) flowers grown for cutting and sale of cut flowers; and 12) Woodlot management for growing, thinning, and harvesting trees for lumber and firewood as a Site Specific Agriculture Management Practices.

At its May 8, 2008 meeting, the CADB discussed the application and determined that Oak Grove Plantation was a commercial farm operation in accordance with N.J.A.C. 2:76-2.3. A Right to Farm hearing was scheduled for September 11, 2008.

On September 5, 2008, the CADB, through its legal counsel, wrote to the SADC and notified it of the application and asked whether SADC would be assuming jurisdiction in the matter.

On September 11, 2009, the SADC, through its counsel, notified the CADB in writing that the SADC would not assume jurisdiction

On September 11, 2008, October 9, 2008, December 11, 2008, January 8, 2009 and February 19, 2009, the CADB held public hearings to determine:

(1) Whether the solar array system and use of the system by Oak Grove Plantation constituted a generally accepted agricultural practice;

(2) Whether the farming activity of the hog operation referred to as a farrow to finish operation conducted on the property constituted a generally accepted agricultural practice;

(3) Whether the farming activity of greenhouse crop production constituted a generally accepted agricultural practice;

(4) Whether the farming activity of growing flowers in the greenhouse and planting them in the fields for cut flower production constituted a generally accepted agricultural practice.

Formal notice of the hearings was published in the Hunterdon County Democrat and served via certified mail on all landowners within 200 feet of the subject property. An Affidavit of Proof of Publication and Notice was provided.

On September 11, 2009, the following CADB members recused themselves for various reasons: Susan Blew, Peter Melick, who is the Chairperson, Paul Dahan, and Robert Zellely.

At the hearing, Guliet Hirsch, Esq. appeared on behalf of Oak Grove Plantation. Richard and Marie Bailey, neighboring landowners, appeared to object to the granting of the application.

The CADB, through its counsel, suggested that the applicants submit an itemized list of what they would like the CADB to consider.

The Exhibits introduced at the hearing were marked as follows:

A packet of documents in support of the SSAMP application of Oak Grove Plantation/High Hope Hogs submitted by Guliet Hirsch, Esq. on behalf of applicants, as follows:

A1. Request For Site Specific Agricultural Management Practice Application for Hearing dated June 20, 2008;

A2. Commercial Farm Certification (RTF Form C and 5/8/08 Certification);

A3. Site drawing by Ted Blew;

A4. 1993, 2000 & 2007 building permits;

A5. 2008/2009 farmland assessment application;

A6. Applicable Franklin Township Zoning Ordinance Sections (as of 12/31/97);

A7. Applicable State Regulations Re: Generally Accepted Operations and Practices (N.J.A.C. 2:76-2A.5 to 2A.7,-2A.9);

A8. Certification of disease-free hogs;

A9. Solar array site plan with fence buffer;

A10. 1/12/06 HCAD Board resolution re: solar array;

A11. 9/24/07 State ADC letter re: solar arrays on preserved farms; and,

A12. Affidavit of Proof of Publication and Notice which includes ownership list within 200 feet provided by Franklin Township, copy of the notice in the newspaper, certified mailing receipts and Proof of Publication in August 21, 2008 Hunterdon Democrat;

A13. The Right to Farm Ordinance of Franklin Township;

A14 A letter dated December 9, 2008 indicating the swine herd was disease free;

A15. Franklin Township Zoning map with a 1997 date on it; and,

A16 Request For Site Specific Agricultural Management Practice Application for Hearing dated December 12, 2008.

Bailey-1 Letter dated January 23, 2007 from Louise Bruni, Records Custodian at the State of New Jersey Department of Agriculture to Marie Bailey in response to her request for records concerning livestock disease control inspections for Oak Grove Plantation.

Bailey-2 Letter dated August 27, 2008 from Richard and Marie Bailey to the Hunterdon CADB setting forth Objectors written complaints against granting of the operation/practices of High Hope Hogs as a Site Specific Agricultural Management Practice with extensive documentation attached as Exhibits 1 through 109.

B-1 Suggested Conditions for Approval of Farm Practices for Which Oak Grove Plantation/High Hope Hogs Requested Site Specific Agricultural Management Practice Approval last revised January 9, 2009;

On September 11, 2008, Marie Bailey expressed her objection to the notice of the hearing indicating it did not include specifics that might be discussed. The CADB discussed the objection and based on its belief that the notice was broad enough so as to let adjoining

property owners know the general purpose of the hearing, a motion was passed to accept the notice as sufficient.

The testimony of all witnesses is recorded in the transcripts of the meetings.

Ted Blew provided testimony in support of the application. He provided a brief history of the farm, as well as past and current operations in each of the areas in which a SSAMP was requested. He also testified as follows:

1. That Oak Grove Plantation and High Hope Hogs are family partnerships. He is a member of Oak Grove Plantation and Susan Blew and Eric Blew are members of High Hope Hogs.

2. The property is located in a zone that permits agriculture.

3. The commercial vegetable production has followed and continues to follow the Rutgers Cooperative Extension Service 2000 Commercial Vegetable Production recommendations and every guide since through and including the year 2008. This covers the following products produced on the farm: all vegetables, sweet corn, peaches apples and Asian pears. The commercial fruit tree production is operated in accordance with Rutgers New Jersey Commercial Fruit Tree Production Guide 2000, and all years since including 2008.

4. The farm operation has a Farm Conservation Plan prepared with the involvement of the Hunterdon County Soil Conservation District, the Federal Farm Service Agency and NRCS. The plan has been upgraded many times.

5. The solar array at the front of the property was installed approximately February through April of 2006. A building permit was obtained for the solar array by Sun Farm, the company that erected it. Approximately 75% of the power currently produced by the solar array system is for the agricultural operation and about 25% of the power currently produced is for the farm residence.

6. The farm operations Natural Resource Conservation Agricultural Practices are in accordance with the Soil Conservation approved Farm Management Plan.

Susan Blew testified and provided a brief history of High Hope Hogs' hog operation and information regarding the number of pigs at any given time and testified as follows:

1. Currently the operation consists of 21 sows, with a rotation of 7 gilts at a time with a boar which are usually bred twice a year, producing two litters, sometimes two and a half per sow a year.

2. She provided a description of the facility in which the pigs are kept.

3. The operation handles swine manure by scraping the product from the pens into a gutter where it travels into a tank, and is then sent to a storage tank. The storage tank is typically pumped twice a year and spread, usually in the fall and spring.
4. No slaughtering is done on the farm and the pork products are retailed.
5. The animals are inspected yearly and the breeding stock, gilts and sows, are tested for Pseudo rabies and Brucellosis.
6. The operation is not a concentrated animal feeding operation as defined by N.J.A.C. 7:14A-2.13.

Gail Bartok testified at the September 11, 2008 hearing as follows:

1. She is employed by the USDA Natural Resource Conservation Service and has been in Hunterdon County with USDA since 1987.
2. Her agency has several versions and revisions of conservation plans that get updated as the operation on the applicants' farm changes. She is familiar with the farm that is the subject of the hearing. Her agency entered into an agreement between the farmer and the USDA to build the ag waste facility in approximately 2000. Her agency also reviewed the Nutrient Management Plan.

3. She was recently at the farm where the farm's Farm Conservation Plan was reviewed with the Blews to determine which practices had been implemented. In her opinion 90 to 95 percent has been implemented. She had not reviewed the nutrient management records.

4. The agreement that the Blews entered into with USDA for the ag waste storage and the nutrient management plan were voluntary.

5. The spreading of the waste stored in the ag waste storage facility on the grounds of the applicants' farm is in accordance with the Certified Nutrient Management Plan and the testing of the waste and the soil to determine where to spread the waste is in accordance with the NRCS Field Office Technical Guide.

6. The ag waste storage facility was built in accordance with NRCS standards and the length of time the waste is retained in the storage facility is governed by NRCS guidelines.

7. The Blews have a Certified Nutrient Management Plan that had to be approved and executed by a certified conservation planner and a certified nutrient management specialist. Currently the farmer has the responsibility of the farmer to monitor the plan.

8. Soil samples can be pulled by anyone and are sent out for testing. The Blews pull their own samples and send them out for testing. The results of the testing are incorporated in the Nutrient Management Plan which is reviewed by NRCS to approve how the material is applied.

Robert Mickel was called as a fact witness. He testified at the September 11, 2008 hearing as follows:

1. He is employed by Rutgers University, and also the County of Hunterdon as Agricultural Agent and has held that position for 11 years.

2. The applicants requested he visit the farm to review their swine operation. He found the operation to be in accordance with the testimony of Mr. and Mrs. Blew, found the barns to be very well maintained, and the hogs in good condition. Overall the applicants ran a very “tight ship”. He found the odors on the premises to be minimal and their management, barn, and hog management to be in “tiptop shape”.

3. The barn where the swine herd is kept is an adequate size for the herd.

At its meeting of October 9, 2008, the CADB determined that a site visit would be scheduled.

On October 29, 2008, the CADB conducted a site visit of the Oak Grove Plantation/ High Hope Hogs property.

At its meeting of December 11, 2008, the objectors' Richard and Marie Bailey cross-examined Susan and Ted Blew with regard to various items concentrating mostly on the hog operation. Multiple references were made to the Objectors' August 27, 2008 submission to the Board which had been marked as Exhibit Bailey-2.

Kevin Johnson, a member of the public, questioned how many pigs were on the farm. Mrs. Blew responded that at this time there were 153. He also asked what the maximum number of pigs would be at any given time. Mrs. Blew indicated that at the maximum there would be 204 pigs. Mr. Johnson inquired if the farmer intended to have anymore. Mrs. Blew indicated the number is limited due to the barn size. He then requested that the Board limit the number of pigs they could have on the property.

At its January 8, 2009 hearing, Susan Blew provided additional testimony as follows:

1. She is familiar with the portion of the Franklin Township Right to Farm Ordinance that dealt with the number of animals that a farmer can have on their property given its size the ordinances specifically mentions swine. She indicated the number of swine on her farm was permissible given the acreage pursuant to the ordinance.

2. That High Hope Hogs was in receipt of a letter from the State indicating the swine herd was disease free in December or 2008.

At its January 8, 2008 hearing, Ted Blew provided additional testimony as follows:

1. Upon review of a Franklin Township Zoning map with a 1997 date on it, Mr. Blew indicated the his farm was located in an agricultural zone.

2. That the farm operation had a Farm Conservation Plan which he believed to have been prepared jointly by the Hunterdon County Soil Conservation District and the Natural Resource Conservation Service, which is a federal agency. The plan was prepared in conformance with the NRCS Field Office Technical Guide. This farm management plan later was updated to include the Nutrient Management Plan. The farm operation carefully complies with the elements of the Farm Conservation Plan.

At the January 8, 2009 hearing, Guiliet Hirsch, Esq. on behalf of the applicants, as well as Richard and Marie Bailey, as Objectors, gave their final presentations and comments on the matters at hand to be considered by the CADB.

The applicant provided written proposed site specific management practices which it asked the Board to adopt. (Exhibit B-1)

The CADB discussed the result of the site visit and its opinions on the farm operations at that site visit.

The CADB considered the concerns of the Objectors and the members of the public, as well as the items submitted for review by the Objectors.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property in question is known as Block 42, Lot 4 in the Township of Franklin.
2. Oak Grove Plantation runs a commercial farming operation on the property and is entitled to protection under the New Jersey Right-to-Farm law.
3. The property is located in a zone that permits agriculture.
4. The solar array has been installed and is located in the front portion of the property. A building permit was obtained for the solar array system. The solar array panel was installed for the primary use of the farm. Approximately 75% of the power currently produced is being used by the farm operation.

5. The farm operation has a Farm Conservation Plan that contains a Certified Nutrient Management Plan which are currently reviewed and updated by various agencies that work with the farm owners. The plan was prepared in conformance the NRCS Field Office Technical Guide.

6. The numbers of swine maintained as a part of the pig operation is in compliance with Franklin Township's Right to Farm Ordinance.

6.1. No slaughtering or butchering of the pigs is done on the premises.

6.2 The number of pigs at any given time varies.

6.3 The hog operation is not a concentrated animal feeding operation as defined by N.J.A.C. 7:14A-2.13.

6.4 The hogs are tested yearly to determine if they are disease free.

6.5 The ag waste storage facility used to store the pig manure was built in accordance with NRCS standards. The spreading of the waste stored in the ag waste storage facility on the grounds of the farm is in accordance with the Certified Nutrient Management Plan. The soil is tested to determine that the area where the waste is spread is in accordance with the NRCS Field Office Technical Guide.

7. The commercial vegetable production operation has followed and continues to follows the Rutgers Cooperative Extension Service 2000 Commercial Vegetable Production recommendations.

8. The commercial fruit tree production which is on the farm is operated in accordance with Rutgers New Jersey Commercial Fruit Tree Production Guide 2000.

**NOW, THEREFORE, BE IT RESOLVED BY THE HUNTERDON COUNTY
AGRICULTURE DEVELOPMENT BOARD AS FOLLOWS:**

A. The request for Site Specific Agricultural Management Practices determination submitted by Oak Grove Plantation a/k/a High Hope Hogs is approved as follows:

1. Solar Panel Array System

Description of practice: The solar array system generates electricity for the agricultural operations and the farmhouse. The installed system consists of nine (9) arrays of 63 panels each. It is approved with the following conditions:

a. That it is located in conformance with applicable municipal zoning requirements such as setbacks;

b. Installation of landscape buffer, if practicable, provided that trimming is permitted if necessary in order to allow the solar panels to fully function; and.

c. The solar panel array is installed for the primary use of the farm operation.

2. Farrow to Finish Hog Operation

Description of practice: Raising of hogs as a farrow to finish operation. This operation has been in progress since 1978 and involves between 20 and 24 sows,

usually one boar and a variety of litters. The maximum number of pigs on the farm on any day is estimated to be no more than 201, consisting of 24 sows, one boar, eight new litters of eleven piglets and older litters of the same number of piglets. The animals are raised in the old dairy barn. The manure generated in the building is scraped into the dairy gutter in the building and piped from there to a reception tank. During the spring and fall it is spread and incorporated into various fields which are chosen based upon the results of lab analysis of soil samples and the farm conservation plan for the property. Butchering occurs at federally inspected facilities offsite. The products are sold at both on and offsite locations. This operation is approved with the following conditions:

- a. If the number of swine results in classification as a confined animal feeding operation pursuant to N.J.A.C. 7:14A-2.13, D.E.P. that approval must be obtained;
- b. Field application of manure must conform with a HCSCS-approved Farm Conservation Plan; and,
- c. All butchering is done off-site.

3. Greenhouse Crop Production

Description of practice: Greenhouse crop production including peppers, tomatoes, watermelons, cantaloupes, other fruits and vegetables, herbs, salad greens, etc. as well as flowers. These crops are started in the greenhouses and then planted in the fields on the site. Three greenhouses are involved: two are approximately 30 feet by 144 feet in size and one is approximately 25 feet in size. Greenhouse production has been ongoing since 1977. This operation is approved with the following condition:

a. Conformance with any applicable field production guide which may be issued by Rutgers Cooperative Extension Service.

4. Cut Flower Production

Description of practice: Flowers for cut flowers are started in the greenhouses and then planted in fields. This is approved with the following condition:

a. Irrigation and nutrient management after planting in the field to conform with the HCSCA-approved Farm Conservation Plan.

B. This determination shall be forwarded to the State Agricultural Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).

C. Any person aggrieved by this decision, may appeal to the State Agricultural Development Committee, pursuant to N.J.A.C. 2:76-2.3(f).

Dated: _____, 2009 _____

WILLIAM BOWLBY, Vice-Chairperson