

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
RECOMMENDING A SITE-SPECIFIC
AGRICULTURAL MANAGEMENT PRACTICE
UNDER THE NEW JERSEY RIGHT TO FARM ACT**

Mr. McCarthy offered the following motion and moved its adoption:

WHEREAS, Thomas Orgo [“Orgo”] has proposed the development of property located at Heyers Mill Road, in the Township of Colts Neck, County of Monmouth, and State of New Jersey and designated as Block , Lots on the Tax Map of the Township of Colts Neck [“the Property”]; and

WHEREAS, Orgo has applied to the Monmouth County Agriculture Development Board [“the Board”] pursuant to N.J.A.C. 2:76-2.3 requesting a determination as to whether the proposed use of the Property as a commercial farm and as the headquarters for his Farm Management Unit, as well as the associated renovations to existing buildings, the current siting of existing structures, and the proposed new construction of farm buildings, constitutes a generally accepted agricultural management practice; and

WHEREAS, Orgo appeared before the Board on October 3, 2001 and January 2, 2002, due notice of said meetings having been given in accordance with the New Jersey Statutes and the Open Public Meetings Act and a quorum of the Board being present at both meetings; the application was heard; and

WHEREAS, Orgo, having been sworn, and representing himself, presented testimony and exhibits in support of his application; and

WHEREAS, Objectors, represented by Counsel, presented testimony and exhibits in opposition to the Orgo application; and

WHEREAS, the Board received into evidence the Resolution of the Colts Neck Board of Adjustment; and

WHEREAS, the Board received into evidence the Opinion of Judge McGann on the appeal of the Colts Neck Board of Adjustment Resolution by both Orgo and Objectors; and

WHEREAS, a Site Review was conducted on October 17, 2001, with the Site Review Team comprised of Karen Colvin Fedosh and Daniel Mott, Board Staff Members; Janice Reid, District Conservationist with the United States Department of Agriculture Natural Resources Conservation Service; Ines M. Grimm, District Manager, Freehold Soil Conservation District; Dr. William J. Sciarappa, Rutgers Cooperative Extension Agricultural Agent for Monmouth County; and Edward Sampson, Supervising Planner, Monmouth County Planning Board; and

WHEREAS, the Board has considered the application, the applicant's certification, the testimony and exhibits presented in favor of and in opposition to the application, the Resolution from the Colts Neck Board of Adjustment, and the Opinion of Judge McGann on the appeal of the Colts Neck Board of Adjustment Resolution.

NOW, THEREFORE, the Board makes the following findings:

1. There is credible testimony and exhibits to establish that the commercial farm is no less than 5 acres.
2. There is credible testimony and exhibits to establish that the current Farm Management Unit is greater than 5 acres, at the time of application totaling nearly 900 acres and operating within the Townships of Colts Neck, Freehold Township, Marlboro, and Middletown.

3. That the commercial farm produces agricultural/horticultural products worth at least \$2500 per year.
4. The list of such products produced each year is listed in the application.
5. That the farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964.
6. That the farm is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan.
7. The Orgo Farm Management Unit was in operation as of July 2, 1998.
8. The A-1 Zone in Colts Neck allows for agriculture as a permitted use.
9. The A-1 Zone in question was in place as of December 31, 1997 or thereafter.
10. A complete written application for a Site-Specific Agricultural Management Practice was made to the Monmouth County Agriculture Development Board.
11. With all of the above criteria above have been satisfied, the Board finds that the Orgo Farm meets the eligibility criteria under The Right To Farm Act.
12. The Site-Specific Agricultural Management Practice that is being sought is found to be included in one or more of the following eligible activities:
 - a. Production of agricultural and horticultural crops, trees and forest products, livestock and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping;
 - b. Processing and packaging the agricultural output of the commercial farm and/or commercial farm management unit;
 - c. Replenishment of soil nutrients and improvement of soil tilth;

- d. Clearing woodlands using open burning and other techniques, installation and maintenance of vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetlands;
 - e. On-site disposal of organic agricultural wastes;
 - f. Other activities as adopted by the State Agriculture Development Committee, pursuant to the Administrative Procedure Act, such as storage of snowplows and associated equipment.
13. The Board finds that the Orgo Farm does not engage in Ineligible Activities listed below:
- a. Agricultural-related services, such as landscape installation
 - b. Processing commodities produced off the farm management unit.

The Board’s Consideration of the Resolution from the Colts Neck Board of

Adjustment

14. The Colts Neck Board of Adjustment found that it was a common agricultural practice to have a central point of operations for a Farm Management Unit comprised of various non-contiguous parcels and that such a “headquarters” operation was typical of farming activity in Monmouth County. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
15. The Colts Neck Board of Adjustment allowed the conversion of the Property from its prior Residential Use to an Agricultural Use as a farm as Agriculture is

- a Permitted Principal Use in the A-1 Zone. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
16. The Colts Neck Board of Adjustment found that the property could be used as a Farm As Of Right because the undersized nature of the lot was grandfathered due to the fact that it was configured that way prior to the passage of the current zoning regulations in 1976. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
 17. The Colts Neck Board of Adjustment found that the Colts Neck Tax Assessor properly issued a Farmland Assessment Certificate for the Property for the 2001 tax year. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
 18. The Colts Neck Board of Adjustment granted a Variance to Mr. Orgo to allow him to store equipment and vehicles associated with his non-contiguous Farm Management Unit that were not used exclusively for on-site purposes, either within or without the boundaries of Colts Neck. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
 19. The Colts Neck Board of Adjustment did not grant a Variance to Mr. Orgo to store or package any farm products that were not exclusively grown in Colts Neck. The Monmouth County Agriculture Development Board disagrees with

- this finding and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
20. The Colts Neck Board of Adjustment granted a Variance to allow the tool shed to have a 54-foot side setback where normally a 100-foot side setback is required. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
 21. The Colts Neck Board of Adjustment denied Mr. Orgo's request for a Variance to allow the Equipment Shed to have a 35.2-foot side setback where a 100-foot side setback is normally required for a Farm Use because the building was sited improperly, even for a Residential Accessory Use (which Residential Use was in effect at the time of the application for a Building Permit), which requires a minimum 50-foot side setback. In a 5-to-1 decision, the Monmouth County Agriculture Development Board disagrees with this finding and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
 22. The Colts Neck Board of Adjustment found that the proposed 10,000 square foot barn is in compliance with the Zoning Ordinances and does not require a Variance. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
 23. The Colts Neck Board of Adjustment found that Title 39, specifically N.J.S.A. 39:3-24 and 25, allowed for farm vehicles used for snow plowing operations and

that no Variance was required. The Monmouth County Agriculture Development Board agrees with this finding and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.

The Board's Consideration of the Conditions Imposed by the Colts Neck Board of Adjustment Resolution:

24. The Colts Neck Board of Adjustment required that white pine trees be used as a buffer on the Eastern and Western sides of the property along with a board-on-board fence. The Monmouth County Agriculture Development Board disagrees with this condition and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
25. The Colts Neck Board of Adjustment required that any equipment stored out in the open be confined to a 100 foot by 100 foot area, which area is to be surrounded by a double row of evergreen screening at least 6 feet high. The Monmouth County Agriculture Development Board disagrees with this condition and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
26. The Colts Neck Board of Adjustment required that all packaging operations would be confined indoors. The Monmouth County Agriculture Development Board disagrees with this condition and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
27. The Colts Neck Board of Adjustment required that no processing of farm products would be allowed on site. The Monmouth County Agriculture

- Development Board disagrees with this finding and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
28. The Colts Neck Board of Adjustment required that no heavy equipment repairs were to be conducted on-site. The Monmouth County Agriculture Development Board disagrees with this condition and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
 29. The Colts Neck Board of Adjustment required that the equipment, machinery, and farm products on the site could only be those utilized in Mr. Orgo's Farm Management unit and not from other farms or other farm management units. The Monmouth County Agriculture Development Board agrees with this condition and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.
 30. The Colts Neck Board of Adjustment required that the Property in question could not be used for any activities or produce associated with non-contiguous parcels of Mr. Orgo's Farm Management Unit located outside Colts Neck. The Monmouth County Agriculture Development Board disagrees with this condition and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice.
 31. The Colts Neck Board of Adjustment required the installation of road signage at appropriate locations to be approved by the Township Engineer along Heyers Mill Road indicating an agricultural equipment crossing. The Monmouth County Agriculture Development Board agrees with this condition and incorporates it

into their Recommendation for this Site-Specific Agricultural Management Practice.

32. The Colts Neck Board of Adjustment required that no materials used in snowplowing operations, other than the snowplow attachments themselves, could be stored on the site, specifically excluding storage of materials used in snow plowing, such as sand, salt, chemicals, and the like. The Monmouth County Agriculture Development Board agrees with this condition and incorporates it into their Recommendation for this Site-Specific Agricultural Management Practice.

The Board's Consideration of the Opinion of Judge McGann in the Appeal of the Colts Neck Board of Adjustment Resolution:

33. Judge McGann appears to interpret the Colts Neck Master Plan to state that the overriding goal is to preserve existing agricultural uses, not to allow new agricultural uses. The Monmouth County Agriculture Development Board respectfully disagrees with this ruling and does not incorporate it into their Recommendation for this Site-Specific Agricultural Management Practice. The Board interprets the New Jersey Right To Farm Act to allow for the conversion to agricultural use of any property so zoned, as in the instant case.
34. Judge McGann interprets the Colts Neck Master Plan as allowing for only large contiguous tracts of farmland to qualify for agricultural use. The Monmouth County Agriculture Development Board respectfully disagrees with this ruling and does not incorporate it into their Recommendation for this Site-Specific

Agricultural Management Practice. The Board finds the expert testimony concerning the concept of Farm Management Units, comprised of various non-contiguous parcels of farmland, to be in wide use throughout Monmouth County to be credible and such expert testimony comports with the Board's experience with farming operations in Monmouth County.

35. Judge McGann takes exception to the property's ability to show that there is at least 5 acres of arable ground and, so, he concludes that the property cannot qualify as a farm or for a Farmland Assessment. His analysis notes that the property is 6.04 acres and he properly excludes the land under the residential farmhouse. Judge McGann, however, also excludes the land under the paved driveway as land that could not be used to meet the 5-acre minimum criteria. Judge McGann also assumes that Mr. Orgo will not use the area under the power lines for farm activities because it requires written agreement from GPU.

The Monmouth County Agriculture Development Board respectfully disagrees with these findings and the resulting ruling and does not incorporate them into their Recommendation for this Site-Specific Agricultural Management Practice. The Board notes that the paved driveway is to be used for both residential and farming operations and should not be excluded from the calculation in determining the 5-acre minimum requirement. In so noting, the Board relies upon the expert testimony of the Site-Review Team as well as the determination made by the Colts Neck Tax Assessor in granting the Farmland Assessment status. In addition, the Board relies upon the expert testimony of the Site-Review Team in acknowledging that cultivation or use of the property

underneath the GPU power lines is normal and is even considered desirable from the utility's standpoint; the Board also finds that the testimony by Mr. Orgo on his proposed agricultural use of the power line easement property to be credible.

NOW, THEREFORE, BE IT FURTHER RESOLVED that, based on the aforesaid findings of fact, the Monmouth County Agriculture Development Board finds that the operation of the Property by Orgo as a commercial farm and as a headquarters for the Orgo Farm Management Unit, complete with the proposed renovations to existing buildings, approval of the siting of current structures, and the construction of the proposed new buildings, constitutes a generally accepted Agricultural Management Practice.

Seconded by Mr. Rifkin and adopted on a roll call by the following vote:

	YES	NO	ABSTAIN	ABSENT
Mr. Buscaglia	X			
Mr. Hom	X			
Mr. Illmensee			X	
Mr. McCarthy	X			
Mr. McCormack	X			
Mr. Potter			X	
Mr. Puglisi	X			
Mr. Pyle				X
Mr. Rifkin	X			
Mr. Stuart			X	

I certify that the foregoing is a true copy of the Resolution of the Monmouth County Agriculture Development Board, duly adopted at a regular meeting of the Board on January 2, 2002.

Dated:

Richard Obal, Secretary