

August 15, 2008

Harriet Honigfeld, Coordinator
Farmland Preservation Program
Monmouth County
Hall of Records Annex
One East Main Street
Freehold, NJ 07728

Re: In the Matter of a Complaint Against Curry Farms
Monmouth CADB Resolution 2008-07-02

Dear Harriet:

Thank you for transmitting a copy of the above resolution to the SADC. This agency's legal staff carefully reviewed the Monmouth CADB's findings and conclusions.

The SADC held a hearing in the Curry Farms (or Curry) case on July 24, 2007 and adopted its report at the Committee meeting held April 25, 2008. The case involved a dispute between Curry and a neighbor, Mr. Campbell. The SADC found that Curry did not meet the income eligibility requirements necessary to entitle it to "commercial farm" status under the Right to Farm Act, N.J.S.A. 4:1C-3.

The April 25, 2008 SADC decision was final agency action on the threshold determination that Curry Farms was not a "commercial farm" due to the absence of substantial credible evidence that the farm produced agricultural or horticultural products worth \$2,500.00 or more annually. No one appealed the state's decision, the 45-day time period having expired on June 9, 2008. Accordingly, the SADC considers its decision final and binding, and the

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agency will not hold the public hearing contemplated in N.J.S.A. 4:1C-10c. as requested in the CADB resolution.

Because Curry Farms is not a "commercial farm" as defined in the act, neither the SADC nor the Monmouth CADB has jurisdiction to consider, in the context of the original neighborhood dispute, whether Curry is engaging in any of the permissible activities set forth in N.J.S.A. 4:1C-9. However, we note that on August 4, 2008 the agency promulgated agricultural management practice (AMP) and right-to-farm protection rules for certain equine operations on commercial farms. N.J.A.C. 2:76-2A.10, -2B.3. [See 40 N.J.R. 4503].

In light of the recently-promulgated equine rules, Curry Farms could seek right-to-farm protection by applying for a site specific agricultural management practice determination from the Monmouth CADB. N.J.S.A. 4:1C-9 and N.J.A.C. 2:76-2.3. Alternately, a fresh complaint against Curry Farms by the municipality and/or a neighbor would also trigger primary CADB jurisdiction pursuant to N.J.S.A. 4:1C-10b. In any of those cases the county board would need to carefully consider whether Curry operates a "commercial farm" and complies with the other threshold requirements set forth in N.J.S.A. 4:1C-9 and/or -10.

If you have any questions or need anything further please give me a call.

Thank you.

Respectfully,

Susan E. Craft, Executive Director
cc: Brian D. Smith, Esq.
Cassandra McCloud, Esq.

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