

June 1, 2000

Albert Johnson,
Chairperson, Cumberland CADB
Cumberland County Planning Board

Re: Maple Run Farms
Cedarville, New Jersey

Lawrence Township, Cumberland County

Dear Mr. Johnson:

At its May 25, 2000 meeting, the State Agriculture Development Committee, ("SADC"), adopted the attached findings and recommendation resulting from a public hearing held on April 24, 2000 concerning the agricultural management practices of Maple Run Farms in Lawrence Township, Cumberland County. The SADC recommended that Mr. Gilson's agricultural operation and practices conform with generally accepted agricultural operations and practices with respect to surface and irrigation water run-off. Enclosed is a copy of the SADC's final report summarizing its findings and recommendations.

Pursuant to N.J.S.A. 4:1C-10.1, the Cumberland CADB must hold a public hearing and issue its findings and recommendations regarding the complaint within 60 days of the receipt of the SADC's decision. In the event that any person is aggrieved by the decision of the Cumberland CADB, he or she shall appeal the decision to the SADC within 10 days. The SADC shall schedule a hearing and make a determination within 90 days of receipt of the petition for review. The decision of the SADC shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court. Any decision of a CADB that is not appealed shall be binding.

If you have any further questions or need any assistance, please do not hesitate to contact me.

Sincerely,

Gregory Romano

Enclosure

c: Albert and Kerry Wynn
Paul Gilson

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**State Agriculture Development Committee
Right to Farm Conflict Resolution**

Hearing Report

**Re: Maple Run Farms
Cedarville, New Jersey**

Lawrence Township, Cumberland County

Acreage: 250 acres (approximately)

**Aggrieved Party: Albert and Kerry Wynn
Cedarville, New Jersey**

Background

Albert & Kerry Wynn live in Lawrence Township, Cumberland County next to Maple Run Farms. On October 21, 1999 they sent a letter to the Cumberland County Agriculture Development Board (CCADB) in which they contended that “water problems” on their property were “being caused by a nearby farm known as Maple Run Farms.” (Exhibit A).

Although the Wynns did not specifically state that they were filing a complaint pursuant to the Right to Farm Act, the CCADB treated the letter as such. Because there are no promulgated agricultural management practices which address the disputed agricultural operation and practices of Maple Run Farms, the CCADB forwarded the letter to the State Agriculture Development Committee (SADC) for a public hearing pursuant to N.J.S.A. 4:1C-10.1c. (Exhibit B).

At the time the Wynns sent their letter, Paul Gilson was the tenant of Maple Run Farms. After receiving the Wynns' letter from the CCADB, SADC staff made a determination that Maple Run Farms met the criteria of the Act to qualify it for the protections of the Act. Specifically, pursuant to a certification made by Paul Gilson, the farm is 250 acres, produces agricultural products worth \$2,500 or more annually and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964. Mr. Gilson attached a list of the agricultural/horticultural commodities produced on the farm and a copy of the filed farmland assessment form, and a copy of the tax map representing the farm acreage. He also established through his certification that the farm was in operation as of July 2, 1998. (Exhibit C, without attachments).

SADC staff made a site visit to Maple Run Farms on December 3, 1999. Photographs from that visit are attached as Exhibits S1 through S6. The photographs depict drainage areas on Maple Run Farms, untilled area adjacent to Wynns' property, and a county drainage easement in front of Wynn residence.

Pursuant to the N.J.S.A. 4:1C-10.15b, SADC staff scheduled a public hearing and notified Mr. Gilson and the Wynns by letters dated April 6, 2000.

Issue

The issue before the SADC is whether the agricultural operation and practices of Maple Run Farms constitute generally accepted agricultural operation and practices with respect to surface and irrigation water run-off.

Summary of Relevant Facts

A public hearing was held pursuant to the Right to Farm Act ("Act"), N.J.S.A. 4:1C-1 et seq. on April 24, 2000 at the Department of Agriculture, Trenton, New Jersey. The hearing was

an informational, fact-gathering forum for all interested persons to provide testimony on the issue. The following people were present at the hearing:

Marci Green, Chief of Legal Affairs, SADC (Hearing Officer)
Sherry Dudas, Acting Manager of the Right to Farm Program, SADC
Albert Wynn (Complainant)
Kerry Wynn (Complainant)
Lester Woody
Richard O. Weber
Julia DeThomas (Daughter of owner of Maple Run Farms)
Paul A. Gilson (Former tenant of Maple Run Farms)

Subsequent to the hearing, SADC staff met with Gary E. Timberman, District Manager of the Cumberland Soil Conservation District (CSCD) and Jim Wick, Resource Conservationist with the Natural Resources Conservation Service (NRCS) to gather technical information regarding the topography and natural conditions of the area in question and information regarding generally accepted agricultural management practices for water control and runoff.

Maple Run Farms is located in Cedarville, Lawrence Township, Cumberland County. It is comprised of 250 acres which, at the time the Wynns sent their letter, was in vegetable crop production. The farm is currently being leased to a nursery, and is not being used to grow vegetable crops.

The Wynns also live in Cedarville, Lawrence Township, Cumberland County, on property directly adjacent to Maple Run Farms. Both Maple Run Farms and the Wynns' property are located in a low-lying drainage area, with the Wynns' property lying lower than Maple Run Farms.

At the hearing, Mr. Gilson and Mr. Woody stated that there has been a water problem on the Wynns' property for a long time. Mr. Timberman of the CSCD confirmed that flooding has been a problem on this property for numerous years and that the SSCC has made numerous visits

to the properties over the years.

The Wynns provided testimony documenting the flooding problems they have experienced. They provided numerous photographs showing water damage to their house and water lying on their property. (Exhibits W1 through W16). They were very upset and frustrated by the situation and expressed safety concerns for their children when the property is flooded.

The Wynns stated, in response to a question during the hearing, that there was a home inspection conducted on their house prior to their purchase of the house and that the inspection revealed past water damage. They stated that they purchased the property “as is” even though it was apparent that there was water damage to the house. Mr. Timberman stated that the Wynns’ foundation is constructed with sandstone, as are most older foundations of South Jersey houses, which has a high propensity to leak and suffer water damage.

When asked if there was something specific to Mr. Gilson’s farming operation or practices that was creating or exacerbating the flooding situation, the Wynns could not provide an answer. The Wynns did state during the hearing, however, that water runoff from irrigation was causing the problem. Mr. Gilson stated that he uses drip irrigation. According to Mr. Wick and Mr. Timberman, irrigation alone would not cause the flooding shown in the photographs provided by the Wynns, or cause such flooding in general. They also stated that drip irrigation creates less water run-off than other types of irrigation and that they could not see any area on the Wynns’ property where irrigation water would pond.

The Wynns also contended that Mr. Gilson was not maintaining drainage ditches on his property, including one ditch which leads to a pipe which was installed by Cumberland County in 1997. (Exhibit S5). Mr. Timberman, however, is of the opinion that the lack of excavation of that ditch is not exacerbating the water problem on the Wynns’ property. In addition, Ms. de

Thomas contended that there was an attempt by Maple Run Farms to dig ditches numerous years ago, but that Kerry Wynn's mother, who lived across the street from Maple Run Farms, had insisted that the ditch digging stop.

Mr. Gilson also stated that he left a cover crop on the lower portion of the property for five years to help with the water problem. Mr. Timberman stated that cover crops are an effective water control measure, and that a cover crop "is the most we can ask for" from a farmer in such a situation.

Both Mr. Wick and Mr. Timberman felt confident that Mr. Gilson has not done anything in his agricultural operation or engaged in agricultural practices which would exacerbate an already-existing drainage problem which is the result of naturally occurring conditions. They stated that flooding has been a problem on these properties for a very long time. They also believe that the flooding depicted in the Wynns' photographs (W1 - W16) could only be caused by severe rain events, and not normal rain events or drip irrigation.

NRCS and CSCD developed a soil and water conservation plan in 1998, which they believe would alleviate the flooding situation. The plan involves, in part, creating a swale to divert water away from the Wynns' property. Mr. Gilson stated that he has not been able to implement the proposal because his agricultural operation had been experiencing financial difficulties in recent years. He indicated, however, that the new tenant on the property has expressed a willingness to implement the plan.

Recommendations

There is no doubt that the Wynns have experienced flooding on their property. Their property is situated in a low-lying drainage area and lies lower than Maple Run Farms. The

natural course of water is to run downhill. The Wynns apparently purchased the property with an awareness that it has a flooding problem. It does not appear, however, that the flooding on the Wynns' property is the result of the agricultural operation or practices of Mr. Gilson or Maple Run Farms. Likewise, it does not appear that Mr. Gilson's agricultural operation has exacerbated a naturally occurring situation. In fact, it appears that Mr. Gilson has implemented agricultural practices designed to minimize flooding. His drip irrigation practices are the least likely of all irrigation practices to create flooding problems and he has retained a cover crop on the lowest lying portion of his property which acts as a water retardant.

It is therefore the recommendation of SADC staff that Mr. Gilson's agricultural operation and practices conform with generally accepted agricultural operations and practices with respect to surface and irrigation water run-off.

Date: May 19, 2000

Marci D. Green
Public Hearing Officer
State Agriculture Development Committee

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