

CHELL AND CHELL

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION

28 COOPER STREET

WOODBURY, NEW JERSEY 08096

(609) 848-3636

October 21, 1998

EUGENE P. CHELL
TIMOTHY W. CHELL

FAX: (609) 853-9085

Mr. Insu Chon
P.O. Box 251
Malaga, NJ 08328

**RE: INSU CHON-POULTRY MANURE APPLICATION
RIGHT TO FARM CONFLICT RESOLUTION**

Dear Mr. Chon:

Please find enclosed Final Report of the Gloucester County Agricultural Development Board with regard to the above referenced matter.

Please feel free to contact the undersigned if you have any questions or concerns.

Yours truly,



TIMOTHY W. CHELL

TWC/mh

Enclosure

cc: \ James Yates, Executive Director of GCADE
Jerome Frecon, Gloucester County Agriculture Development
Agent
Gary Lee, Gloucester County Soil Conservation District Agent
Gregory Romano, Executive Director of SADC
Sherry Dudas, SADC

REPORT
GLOUCESTER COUNTY AGRICULTURE DEVELOPMENT COMMITTEE
RIGHT TO FARM CONFLICT RESOLUTION

RE: INSU CHON APPLICATION OF POULTRY MANURE
FRANKLIN TOWNSHIP, BLOCK 5602, LOT 2
APPROXIMATE ACREAGE 9.8

LEGAL AUTHORITY

Pursuant to the Right to Farm Act and more specifically, 4:1C-26, any person aggrieved by the operation of a commercial farm can file a complaint with the applicable County Agriculture Development Board. In the event the dispute concerns activities that are not addressed by an agricultural management practice recommended by the committee and adopted pursuant to the provisions of the Administrative Procedure Act, the County Board shall forward the Complaint to the State Agricultural Development Committee for a determination of whether the disputed agricultural operation constitutes a generally accepted agricultural operation or practice. Upon receipt of the Complaint, the SADC shall hold a public hearing and issue its findings and recommendations within sixty (60) days of its decision.

PROCEDURAL HISTORY

This matter was heard by the SADC on September 17, 1998. The final report of the SADC is attached to the final report of the Gloucester County Agriculture Development Board ("GCADB"). This matter was then scheduled for further hearing in front of the GCADB which was heard on Thursday, October 15, 1998, at 7:30 p.m. in the Gloucester County Office Building, 1200 North Delsea Drive, Clayton, New Jersey 08312. The GCADB set forth at that hearing to review the management practices of Insu Chon and provide findings and recommendations. The following is a general summary of testimony provided at the hearing.

Ms. Sherry Dudas of the SADC Right to Farm Program provided a brief synopsis of action taken by the SADC and a procedural history of the matter to this point.

Mr. Chon addressed the Board regarding his agricultural management practices. Mr. Chon stated that he has been farming at the present location since 1990 and at another location in Franklin Township since 1975. He noted that since 1990 new neighbors had moved into the area and that was when the problems for him began. Mr. Chon stated that he orders poultry manure from a company in Lancaster, Pennsylvania by the tractor trailer load and the manure is dry, like powder, with less than 65% moisture. Mr. Chon further testified that he could provide a certificate that this manure is less than 65% moisture.

Mr. Chon testified that at times, manure would sit for 3-4 weeks. Mr. Chon testified that he used manure as side dressing. Mr. Chon further indicated that he sometimes would stock pile 1-2 tractor trailer loads at a time. Mr. Chon was asked by Mr. Randazzo if there was another location where he could stock pile the manure and Mr. Chon indicated there was no other location.

Mr. Ed Keener addressed the committee as a neighbor of Mr. Chon. Mr. Keener testified that the living conditions next to Mr. Chon's farm are terrible. He testified that in April an influx of flies began to swarm the area. Mr. Keener testified that he and his neighbors felt like prisoners in their homes. Mr. Keener attempted to resolve the matter with Mr. Chon and was not successful in doing so. Mr. Keener testified that he then contacted Gloucester County Agricultural Agent, Jerome Frecon regarding appropriate management practice regarding poultry manure application. Mr. Keener indicated that he tried to convey this information to Mr. Chon and was unsuccessful in getting Mr. Chon to follow the appropriate practice. Mr. Keener testified that he has been living in his present location for approximately nine years and this situation has only been arising in the last two years.

Mr. James Hogan of Franklin Township Committee then testified regarding the matter. He indicated that he felt this problem had only arisen in the last two years. He testified that he himself saw the piles of manure and they were approximately chest high.

Sergeant Olsen of Franklin Township Police Department was then sworn in to testify. Sergeant Olsen indicated that he was called upon to investigate the neighbors complaints regarding Mr. Chon's farm. Sergeant Olsen testified that the poultry manure was delivered to Mr. Chon's farm on July 10, 1998. He further testified that on July 16, 1998, Mr. Chon had five (5) days in which to spread the manure to help resolve the problem. He further testified that Mr. Chon spread the manure on July 19, 1998. He indicated that he returned to the farm on July 22, 1998, and found that the manure was spread above the ground and not tilled into the ground. He testified that the odor was still unbearable and that the flies seemed to be even worse than when the manure was stock piled.

Sergeant Olsen passed pictures around to the Board Members of various evidence of the manure at different times. The pictures were dated and reviewed by the members of the Board. Sergeant Olsen further testified about the moisture content of the manure and he was of the opinion that it was extremely wet and further testified that there was no rain during the period of July 10th when the manure was delivered through July 22nd when the manure was spread.

FINDINGS AND CONCLUSIONS

The Board then made the decision to consider seperately each of the findings of the State Agriculture Development Committee. A Motion was made to confirm the finding of the State Agriculture Development Committee that:

1. The poultry manure which appeared to be a combination of poultry house litter and poultry manure, was stock piled without provisions to keep it dry or prevent run off. This operation is not in compliance with the Agricultural Management Practice for poultry manure application and use in crop production adopted by the SADC on September 24, 1987. This Motion was passed.

2. The Board considered a Motion to confirm the finding of the SADC that a farm conservation plan has not been prepared for this farm or it's operations. This Motion passed.

3. The Board considered a Motion to confirm the SADC finding that the practice of using poultry manure as a side dressing or weed control agent is not a generally accepted operation of practice. The Board found that the Agricultural Management Practice did not consider this issue, and therefore, a Motion was passed to not confirm that finding of the State.

Finally, a Motion was made by Mr. Banscher that Mr. Insu Chon work with Gloucester County Agricultural Agent, Jerome Frecon and Gloucester County Soil Conservation Agent, Gary Lee to properly administer the poultry manure. This Motion was passed unanimously.

SUMMARY

The GCADB, based on the investigation of facts, testimony presented, and the SADC final report found that:

1. The poultry manure which appeared to be a combination of poultry house litter and poultry manure, was stock piled without provisions to keep it dry or prevent run off. This operation is not in compliance with the Agricultural Management Practice for poultry manure application and use in crop production adopted by the SADC on September 24, 1987; and

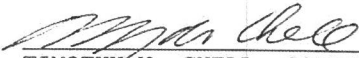
2. A farm conservation plan has not been prepared for this farm or it's operations. Furthermore, it is a generally accepted practice to secure a farm conservation plan when applying animal manure to agricultural fields; and

3. The Board recommends that Insu Chon work with Gloucester County Agriculture Extension Agent, Jerome Frecon and Gloucester County Soil Conservation Agent, Gary Lee with regard to correcting the above problems and applying poultry manure in an acceptable manner in accordance with Agricultural Management Practices.

The Gloucester County Agricultural Development Board's review and determination of the agricultural operation of practice occurred at it's meeting on October 15, 1998.

MEMBERS PRESENT

Vice-Chairman Russell Naylor
Member Joseph Randazzo
Member John Banscher
Member Mike Visalli
Member Alex Clemick
Member Wally Eachus



TIMOTHY W. CHELL, SOLICITOR
GLOUCESTER COUNTY AGRICULTURE
DEVELOPMENT BOARD