

March 29, 2006

Fred Dubowsky, Esq.

Lewis Goldshore, Esq.
Goldshore, Cash & Kalac, P.C.

Re: Conflict Resolution
Barton Nursery
Edison, Middlesex County
Aggrieved Party: Anthony Russomanno

Dear Mr. Dubowsky and Mr. Goldshore:

Enclosed please find a copy of the hearing report for the Barton Nursery matter. The State Agriculture Development Committee (SADC) adopted this hearing report during its March 23, 2006 meeting.

The SADC is forwarding the report to the Middlesex County Agriculture Development Board (CADB), pursuant to the Right to Farm Act, N.J.S.A. 4:1C-10.1c. The Middlesex CADB is required to hold a public hearing within 60 days of receipt of the SADC's decision.

If you have any questions, please contact me or David Kimmel, Right to Farm Program Specialist, at (609) 984-2504.

Sincerely,

Cassandra A. McCloud, Esq.
Legal Affairs Specialist

Enclosure

cc: Linda Busch, Middlesex CADB
Jeffrey Lehrer, Esq., Edison Township Zoning Board

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

Hearing Report

Farm Operator: Barton Nursery/Joseph Barton (aka Joseph Bartonek)
Edison, Middlesex County

Aggrieved Party: Anthony Russomanno (on behalf of himself and unidentified
neighbors)

Date of Hearing: January 24, 2006

I. Background

Barton Nursery (hereinafter “Barton Nursery” or “the Nursery”) is a horticulture operation located in Edison Township, Middlesex County. Joseph Barton has owned and operated Barton Nursery for the past 35 years. The property consists of approximately 15 acres and includes an office, 18 hoop houses, a warehouse, a house for the Nursery’s employees, and a garage. The Nursery purchased eight of the 15 acres in 1998, after leasing that land for a number of years. Mr. Barton lives on the property with his family.

Approximately 14.5 acres is devoted to a production nursery for flowering plants, shrubs and trees. Much of the production is done in containers -- Barton Nursery purchases plants, pots them or places them in burlap sacs, and trims, prunes, waters, fertilizes and otherwise cares for the plants before selling them.

Barton Nursery also owns and/or leases other land in the area, all of which is operated as a single enterprise.

The property at issue abuts New Durham Road in the front and New Brooklyn Road in the rear, with part of the property located in an Industrial District (L-I) zone and the remaining portion located in a Residential District (R-BB) zone. The Township of Edison approved the horticultural use of the property as a valid nonconforming use. (Exhibit A).

The primary complainant, Anthony Russomano, lives across the street from the rear of Barton Nursery. Jane Seredy, whose name does not appear on the right-to-farm complaint but who testified at the hearing, lives directly adjacent to Barton Nursery. She shares a right-of-way with the Nursery and accesses her property through the Nursery property.

II. Procedural History

This matter was originally filed in New Jersey Superior Court, Law Division, as a complaint in lieu of prerogative writ by Mr. Russomanno (hereinafter “Russomanno”), his wife Cheryl, Jane Seredy, and 13 others against the Edison Township Zoning Board, Joseph A. Bartonek and Joseph A. Barton Realty, Inc. and Joemike Realty, Inc. The court transferred it to the Middlesex County Agriculture Development Board (hereinafter “MCADB”) pursuant to the Right to Farm Act (Act), N.J.S.A. 4:1C-1 et seq., with the direction that the plaintiffs file a complaint with the MCADB.*

* The court also separately transferred Count One of Plaintiff’s Complaint to the MCADB, and dismissed all other counts without prejudice. Count One sought to void a resolution adopted by the Edison Township Zoning Board of Adjustment granting the defendants a certificate of nonconformity and approval to continue a nonconforming use of Block 21A, Lot 4A. Neither the SADC nor the MCADB has the authority, however, to review a decision by a zoning board of adjustment that approves an agricultural or horticultural use of land.

Mr. Russomano then filed a complaint with the MCADB on behalf of himself, Jane Seredy and other unidentified neighbors on September 19, 2001. The Complaint listed 13 items, which are categorized and set forth in detail below. The MCADB forwarded the complaint to the SADC for a public hearing pursuant to N.J.S.A. 4:1C-10.1(c) as the disputed activities in the complaint are not addressed by agricultural management practices adopted by the SADC. (Exhibit B).

In May 2002, SADC staff determined that Barton Nursery did not meet the definition of commercial farm in the Act because the Edison Township tax assessor had denied the Nursery's applications for farmland assessment for 2001, 2002 and 2003. Barton Nursery appealed the SADC's decision and the SADC transmitted the matter to the Office of Administrative Law (hereinafter "OAL") for a determination solely on the issue of whether the operation met the Act's definition of commercial farm.

Barton Nursery also appealed the Township's denial of farmland assessment to the Middlesex County Board of Taxation, which affirmed the local assessor's ruling. The Nursery appealed that decision to the Tax Court of New Jersey. While the matter was pending in OAL, the Tax Court found that Barton Nursery was entitled to farmland assessment. The Township appealed that decision to the New Jersey Superior Court, Appellate Division, which upheld the Tax Court's decision. Joseph L. Bartonek, LLC v. Edison Township, No. A-6898-02T3 (App. Div. November 24, 2004).

Based on the Appellate Division decision, the OAL issued an Initial Decision on August 5, 2005, in which it remanded the matter to the Middlesex CADB for a

determination of whether Barton Nursery met the remaining eligibility criteria of the Right to Farm Act. The SADC adopted the Initial Decision on September 22, 2005. The MCADB re-transmitted the matter to the SADC on October 12, 2005. The SADC held a public hearing on January 24, 2006.

III. Threshold Eligibility Criteria

To receive the protections of the Right to Farm Act (hereinafter “Act”), a farm must meet the definition of “commercial farm” as set forth in the Act. In addition, the farm must be located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or the commercial farm must have been in operation as of the effective date of the Right to Farm Act amendments (July 2, 1998).

I find that Barton Nursery meets the definition of commercial farm. It is a farm management unit in excess of five acres, produces horticultural products worth in excess of \$2,500.00 or more annually and has satisfied the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. Barton Nursery also meets the other threshold criterion, as the Property has been in operation since 1970.

IV. Complaint

Mr. Russomanno’s complaint addresses seven issues, which allege the following* :

* Mr. Russomanno’s complaint also included an allegation that the Nursery was in violation of a court order “to keep clear a shared easement with Mrs. Seredy.” Neither the SADC nor the MCADB has the authority to review a court order and determine whether it is being violated – unless the order was the result of a nuisance claim against the Nursery. Accordingly, this issue was not addressed at the hearing and is relevant only to the extent that Barton Nursery shall not be entitled to Right to Farm protection for any activity that is deemed by a court to be a violation of a prior court order that addresses the respective rights of the parties regarding the shared right-of-way.

A. Drainage and Wetlands

Barton Nursery is causing flooding of a neighbor's property and a local collector street.

B. Noise

There is noise associated with the "constant" unloading of tractor-trailers hauling trees, stone, mulch and bagged material for retail and from the milling and grinding of topsoil.

C. Watering Practices

Constant watering practices has resulted in silt collecting in a drainage ditch along a roadway.

D. Odors

Odors emanate from Barton Nursery due to the dumping of leaves and other material.

E. Hardship for Neighbors

Neighbors are experiencing a hardship from trees that Barton Nursery planted along its property line.

F. Parking

Trucks parked along a county roadway create problems for people exiting Barton Nursery; trucks belonging to Barton Nursery park illegally in

neighboring parking lots; there is no designated loading or unloading area for trucks visiting the site; and there is insufficient parking for customers, forcing customers to park on the roadway.

G. Wells

Barton Nursery is responsible for a neighbor's well going dry and for digging a new well without proper permits.

V. **Summary of Relevant Facts**

A hearing was held at the New Jersey Department of Agriculture in Trenton, New Jersey on January 24, 2006. The following people attended:

Fred Dubowsky, Esq., on behalf of Anthony Russomanno and Jane Seredy

Anthony Russomanno, Complainant

Jane Seredy, Neighbor

Lewis Goldshore, Esq., on behalf of Barton Nursery

Amie Kalac, Esq., on behalf of Barton Nursery

Joe Barton, Barton Nursery

John D. Martin, Ph.D., on behalf of Barton Nursery

Linda Busch, Middlesex County Agriculture Development Board, Administrator

John D. Martin, Ph.D., an Associate Professor of Ornamental Horticulture, Department of Ornamental Horticulture and Environmental Design, Delaware Valley College, testified as an expert witness on behalf of Barton Nursery. He visited the Nursery

most recently on January 3, 2006 and submitted a report dated January 17, 2006 (Exhibit C) along with another report dated October 1, 2002 (Exhibit D, Tab A). David Kimmel, Right to Farm Specialist for the SADC, visited Barton Nursery on July 14, 2003, and submitted a report dated July 15, 2003 (Exhibit E).

A. Drainage and Wetlands

Mr. Russomanno testified that prior to Mr. Barton purchasing the portion of Barton Nursery that abuts New Brooklyn Road, flooding never occurred on New Brooklyn Road. According to Mr. Russomanno, after Mr. Barton purchased the property, Mr. Barton re-graded the entire lot, causing water to run off the nursery and flood New Brooklyn Road. Mr. Russomanno further testified that the flooding of New Brooklyn Road and lack of drainage did not affect his property, but affected his quality of life.

During the hearing Mr. Russomanno stated that his biggest concern was the need for a detention basin so water would drain slowly into the ditch and not onto the road. However, no engineering testimony was presented to address this issue or to establish that Mr. Barton's property is the cause of the flooding.

Mr. Russomanno provided the Hearing Officer with a copy of a memo from Martin Lyons, P.E., Supervisor of Engineering Services for the Township of Edison, dated June 11, 1999, that discusses soil removal and the need for a site plan at Barton Nursery.

Mr. Barton testified that prior to purchasing the eight-acre portion of his property that abuts New Brooklyn Road, he leased the property from the prior owner. He utilized some of the areas because the property was not graded and needed a lot of work. When

asked to describe the drainage around his property, he stated that it was “great,” that the drainage runs into an aquifer and whatever does not go into the aquifer runs down a ditch into a sewer. Mr. Barton also noted that there is drainage that runs from New Durham Road through a storm sewer into a ditch that runs along the back of his property, coming out onto New Brooklyn Road. He stated that he has never been cited by any governmental entity for any wetlands violations or for violations resulting from drainage or storm water runoff.

B. Noise

Mr. Russomanno testified that over the last couple of years, the noise from trucks has improved, but that it used to be a “major problem.” He further testified that he is not personally affected by the noise of the trucks, but that it is a quality of life issue. Mr. Russomanno also stated that noise from the milling machine is no longer an issue because the Nursery moved the machine to the front of the property.

Mr. Barton testified that he did not go out of his way to make noise on his property to annoy his neighbors. He stated that when tractor-trailers are on his property, he is adamant about the drivers shutting the engines off. Mr. Barton further testified that all of his equipment is fairly new and muffled.

Dr. Martin testified that on his numerous visits, he never heard anything unusual for a nursery operation. He acknowledged that the fleet of equipment was modern and new and that most new equipment is equipped with noise suppression systems.

C. Watering Practices/Irrigation

Mr. Russomanno testified that due to constant watering of the premises and grading of the property, a lot of silt collects in a drainage ditch along the road in a public area.

Ms. Seredy testified that the sprinkler system runs constantly and waters the right-of-way that she shares with Barton Nursery and the area where her mailbox is located.

Dr. Martin testified that Barton Nursery uses an overhead watering system similar to most nursery operations and that the sprinklers are properly spaced apart. He further stated that the irrigation system was being operated in accordance with generally accepted horticultural operations.

D. Odors

Mr. Russomanno testified that since Mr. Barton stopped using leaves in his nursery operation, the odors have subsided.

Mr. Barton testified that at one time, he used leaves “to assist in winterizing the root balls” but that he discontinued this practice about five or six years ago due to the mess the leaves made and because better products became available for this purpose. He further testified that he has never been cited by any governmental agency regarding odors on his property.

Dr. Martin testified that he did not smell any unusual odors, that Barton Nursery smelled like a nursery and that this aspect of the nursery was being conducted in accordance with generally accepted operations and standards.

E. Trees on Property Line (“Hardship on Neighbors”)

Mr. Russomanno testified that none of the neighbors along Lordina Drive – the area where the disputed trees were planted -- were able to be present for the hearing because of their work schedules. He testified on their behalf, however, stating that Mr. Barton planted the trees so close to the neighbors’ property line along Lordina Drive that the trees hang over. Mr. Russomanno admitted that these trees did not create a hardship for him.

Mr. Barton testified that he planted trees ten feet from the property line as a vegetative buffer between his operation and the neighbors’ properties. He has never received any complaints from his neighbors regarding the trees, which are now approximately 25 feet high. (Exhibit D, Tab D).

F. Parking

Ms. Seredy testified that she would often return home from work to find a large truck blocking the driveway she shared with Barton Nursery. She stated that she would have to wait until the truck driver backed up so she could get into her yard. She also testified that trucks would park alongside New Durham Road, making it difficult for her to pull out from the right-of-way she shared with the nursery onto New Durham Road because she could not see. She said she went to police headquarters once to complain that this was a dangerous situation and they told her to call them the next time she had difficulty pulling out onto the road. She called once and the police helped her onto New

Durham Road. On another occasion, she went directly to Mr. Barton's office and his employees assisted her.

Mr. Russomanno testified that while the parking of trucks on New Durham Road does not affect him personally, he believes it presents a safety issue.

Mr. Barton testified that he has a parking area in front of his office and that he has never been cited by any governmental authority for a motor vehicle violation. (Exhibit D, Tab D).

Dr. Martin testified that he did not observe any problems with trucks parked along New Durham Road when he was on the property. He stated that materials have to get to the nursery somehow so trucks are used, that this is common in a nursery or farming operation, and consistent with generally accepted practices.

G. Wells

Mrs. Seredy testified that she had a well installed in the 1960s when her house was built. A few years back, she had to have another well installed because the water from the first well was brown. She stated that the person who dug her new well believed that her well was not working due to the numerous wells that had been dug on the Nursery property. He had to dig deeper than the original well to reach a sufficient supply of potable water.*

* After the hearing, Mr. Dubowsky sent the Hearing Officer a copy of a "Well Record" and a "Permit to Drill," issued by the New Jersey Department of Environmental Protection (DEP). Both papers had "post-it" notes attached to them with statements presumably written by Mr. Dubowsky or Mr. Russomanno. One "post-it" stated that DEP "had no idea" of the pump size installed by Barton

Mr. Barton testified that he has six wells on his property but that he does not use all of them. He said that in a highly-developed area like Edison, it is not uncommon for wells to go dry. In addition, wells must be dug deep to obtain clean water in Edison. Mr. Barton also testified that up until five years ago, there was a “major company” in the area that had a well that pumped thousands of gallons a minute. This company drained the area of water and as a result, many wells ran dry. He further testified that he used a well driller to dig his wells, obtained the requisite permits and that he has never been cited by any governmental agency for digging a well without a proper permit.

Dr. Martin summed up his testimony by stating that he has experience with other plant nurseries in New Jersey, Pennsylvania and throughout the country and is familiar with generally accepted operations and practices in the horticulture industry. He testified that he found Barton Nursery to be an ordinary type of operation, performing normal tasks that occur at a nursery of this size. These tasks include watering and caring for plants and growing plants for sale where value is added. Dr. Martin did not agree with Mr. Russomanno’s understanding of what a horticultural operation is in New Jersey. He stated that Barton Nursery differs from retail operations like Home Depot or Lowes because a very low percentage of Barton Nursery’s total sales is retail. In addition, retail outlets like

Nursery, but that it “must be under 70 GMP or violation.” Another note contained the following language: “Lady said sometimes applicants will intentionally lower specs so that tough criteria can be avoided like [illegible number] gpm.” A third note stated “map is wrong” and that the “position of pump is not accurate.” The hearing officer is not making these documents a part of the record because the hearing officer did not state that the record was being kept open for the parties to submit additional documents. The hearing officer notes, however, that the documents fail to establish any violations of DEP regulations or misconduct by Barton Nursery in obtaining the permits.

Home Depot and Lowes attempt to sell all product before the end of a season whereas, Barton Nursery does not attempt to sell all product before the end of a season. He testified that there is a lot of production at Barton Nursery -- where product is brought in, grown, and sold.

Dr. Martin further explained that containerized operations are common in this area because property is too valuable to grow things long term. He added that he believed the impact of Barton Nursery on the general health and public safety is positive because it provides open space in an area that is primarily industrial.

H. General Testimony

Barton Nursery submitted two reports prepared by Dr. Martin. In the report dated January 17, 2006 (Exhibit C), Dr. Martin addressed irrigation, noise, odors, vehicle movements and the buffer of trees planted on the property line. He also addressed the inherent conflict between nurseries and their neighbors in residential areas by stating:

This is not uncommon in a residential/agricultural interface and I am familiar with similar complaints being raised throughout the country when residences are constructed too close to existing farms, plant nurseries and other legitimate agricultural enterprises. These complaints usually arise from a lack of understanding and education with respect to how farms actually operate. These complaints do not indicate that the agricultural/horticultural operation is deviating from generally accepted operations and practices. They are merely a consequence of constructing homes too close to agricultural/horticultural operations and placing non-farm families too close to a working farm.

VI. Factual and Legal Analysis

To receive the protections of the Right to Farm Act, Barton Nursery must be in compliance with generally accepted agriculture practices and relevant State and federal laws and regulations, and not pose a direct threat to public health or safety.

1. Drainage and Wetlands

Drainage and wetlands issues are primarily regulated in New Jersey by State law and local ordinances. No evidence was offered to show that the Nursery is not in compliance with State regulations or local ordinances. As noted above, Mr. Russomanno provided a copy of a 1999 memo from an engineer for Edison Township, which discusses the need for a site plan. It is unclear from this memo, however, if the Township ever pursued this with the Nursery. Mr. Barton testified that the Township never cited him for violation of any township ordinances. Although allegations were made that the flooding poses a threat to public health and safety, none of the testimony or evidence established that the Nursery caused flooding in the area or that such flooding posed such a threat.

On the other hand, the Nursery did not provide any engineering evidence regarding the control of stormwater and irrigation water runoff. In fact, Mr. Barton admitted that some of the water drains onto New Brooklyn Road.

I conclude that Barton Nursery is entitled to right-to-farm protection for drainage and wetlands, but this finding is subject to the Nursery's stormwater and irrigation runoff practices being in compliance with State law. Although there was testimony regarding flooding of New Brooklyn Road, no evidence was provided regarding the extent and

frequency of the flooding, and whether the flooding creates a traffic or other hazard. There was not sufficient evidence, therefore, for a finding that drainage and use of wetlands poses a direct threat to public health and safety. Further, because no evidence was presented regarding violations of municipal ordinances regarding drainage and use of wetlands, I make no finding of whether the Nursery preempts any such ordinances pursuant to N.J.S.A. 4:1C-9 and Township of Franklin v. den Hollander, 172 N.J. 147, 151 (2002).

2. Noise

It appears from Mr. Russomanno's testimony that noise from Barton Nursery is no longer an issue for him. It is difficult to assess the noise impact on other neighbors, as those neighbors were not present at the hearing, nor did they provide any written testimony.

Based on the testimony of Dr. Martin and Mr. Barton, I find that the operation conforms to generally accepted practices with respect to noise. There was no testimony establishing that noise from the Nursery poses a direct threat to public health and safety or that the Nursery is in violation of any State noise regulations. Because there was no proof presented that the Nursery has violated any municipal noise ordinances, this hearing report makes no findings of whether the Nursery is entitled to preempt any noise ordinances pursuant to N.J.S.A. 4:1C-9 and den Hollander, supra.

3. Watering Practices/Irrigation

The complaint includes an item regarding the Nursery's "watering practices," and allege that such practices cause run-off and silt collection issues. With respect to the

Nursery's irrigation practices, Dr. Martin provided a general opinion that the practices conform with generally accepted practices in the horticultural industry. Based on his testimony, I conclude that the irrigation practices are entitled to the protections of the Act.

Despite this conclusion, I note that neither Dr. Martin nor Mr. Barton specifically addressed the frequency of the irrigation, the time of the day that the sprinklers were turned on, and the length of time the sprinklers are kept on – and whether those are generally accepted practices. Ms. Seredy's testimony at the hearing focused on the frequency of the irrigation and the nuisance that the irrigation causes by covering the shared right-of-way and her mailbox with water. I therefore qualify my conclusion with two requirements: (1) that the Nursery conform with generally accepted practices regarding frequency of irrigation, time of day of irrigation, and length of time the sprinklers are kept on; and (2) the Nursery be considerate of Ms. Seredy's right-of-way and mailbox when running the sprinklers and to alter its irrigation practices to the best of its ability to minimize the impact on the right-of-way and mailbox.*

With regard to the issue of irrigation water run-off causing collection of silt in a drainage ditch, see my findings under Drainage and Wetlands above.

4. Odors

* As noted in an earlier footnote, the complaint filed in this matter included an allegation that Barton Nursery is in violation of a court order to keep clear the right-of-way that it shares with Ms. Seredy. While the SADC and MCADB do not have the authority to decide whether the Nursery is in violation of a court order, the Nursery's eligibility for the protections of the Right to Farm Act is contingent upon it not being in violation of any court order relevant to horticultural activities on the property.

It appears that the odors from the Nursery have subsided since the Nursery stopped using leaves to winterize root balls. Dr. Martin testified that the odors emanating from the Nursery are typical nursery odors and that the operation conformed to generally accepted practices. Based on this testimony, I conclude that, with respect to odors, the operation conforms to generally accepted horticultural practices. I note that there was no testimony that the odors posed a direct threat to public health and safety or that the Nursery was in violation of any State regulations regarding odor. I further note that there was no testimony regarding violation of municipal ordinances, therefore, this hearing report makes no findings of whether the Nursery is entitled to preempt any odor ordinances pursuant to N.J.S.A. 4:1C-9 and den Hollander, supra.

5. Trees on Property Line (“Hardship on Neighbors”)

There was no direct testimony at the hearing regarding any hardship that the trees impose on the neighboring properties. Indeed, Mr. Barton testified that he planted the trees to serve as a vegetative buffer between his operation and the neighbors. Based on Mr. Barton’s reason that he planted the trees to serve as a buffer, and Dr. Martin’s testimony regarding such vegetative buffers, I find that this is a generally accepted practice that does not pose any direct threat to public health and safety.

6. Parking

It appears that the Nursery utilizes its trucks in a manner that conforms with generally accepted practices for a nursery operation. Ingress/egress and customer parking are matters of municipal or county regulation. No evidence was presented to show that

the Nursery was in violation of any local ordinances. Therefore, this hearing report makes no findings of whether the Nursery is entitled to preempt municipal ordinances regarding truck ingress, egress, and parking.

There was testimony, however, that suggests that the parking of the trucks on New Durham Road poses a direct threat to the health and safety of Ms. Seredy, who shares a right-of-way with the Nursery, and whose only means of access to her property is via that right-of-way. My finding that the Nursery is entitled to the protections of the Act is therefore contingent upon the Nursery ensuring that trucks do not obstruct the vision of any cars turning onto New Durham Road from the right-of-way that the Nursery shares with Ms. Seredy.

7. Wells

Because well drilling and water allocation are regulated by State law, I find that this is not a valid right-to-farm issue. Nonetheless, I note that there was insufficient testimony to establish that the Nursery operation caused Ms. Seredy's well to go dry or has otherwise posed a direct threat to public health and safety regarding water usage in the area. It appears from the Nursery's testimony that it received the necessary permits for the wells on the property.

VII. Conclusion

Barton Nursery is entitled to the protections of the Right to Farm Act for the following activities/issues:

1. drainage and wetlands usage, subject to the Nursery being in compliance with relevant State laws and regulations;
2. noise;
3. irrigation practices, provided that the Nursery:
 - a. conforms with generally accepted horticultural practices regarding frequency of irrigation, time of day of irrigation, and duration of sprinkler use;
 - b. minimizes the impact of the sprinklers on the right-of-way shared by Ms. Seredy and the Nursery to the best of its ability; and
 - c. is not in violation of any court orders addressing the respective rights of the parties regarding the shared right-of-way.
4. odors;
5. trees on property line;
6. parking, contingent upon the Nursery:
 - a. ensuring that trucks do not obstruct the vision of cars turning onto New Durham Road from the right-of-way that the Nursery shares with Ms. Seredy; and
 - b. is not in violation of any court orders addressing the respective rights of the parties regarding the shared right-of-way.

I further find that well activity and water allocation are not valid right-to-farm issues insofar as they are regulated solely by State law. In the event that a municipality

attempts to regulate well activity and water allocation, such issues may be deemed right-to-farm issues.

Lastly, this hearing report makes no finding regarding whether Barton Nursery may preempt any municipal ordinances, as there was no testimony or evidence presented regarding relevant ordinances.

Date:

Cassandra A. McCloud
Hearing Officer
State Agriculture Development Committee

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