

March 19, 2002

Jerry Suk, Chairman
Morris County Agriculture Development Board
Morris County Planning Board

Re: Plut's Christmas Tree Farm
Washington Township, Morris County
Aggrieved Party: Susan Gruss

Dear Mr. Suk:

At its February 28, 2002 meeting, the State Agriculture Development Committee, ("SADC"), adopted the attached findings and recommendation resulting from a public hearing held on January 31, 2002 concerning the agricultural management practices of Plut's Christmas Tree Farm located in Washington Township, Morris County. The SADC recommended that the Plut's agricultural operation and practices do not conform with generally accepted agricultural operations and practices with respect to choose and cut Christmas tree sales. 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 Morris County Agriculture Development Board ("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 Morris 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.

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If you have any further questions or need any assistance, please do not hesitate to contact Sherry Dudas at 609-984-2504.

Sincerely,

Gregory Romano

Enclosure

c: Susan Gruss
Karolina Plut

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

Hearing Report

Re: Plut's Christmas Tree Farm

Washington Township, Morris County

Acreage: 15 acres

Aggrieved Party: Susan Gruss

Background

Plut's Christmas Tree Farm ("Plut's" or "Plut's Farm") is a 15-acre "choose and cut" Christmas tree farm in Washington Township, Morris County. On November 30, 2000, the Morris County Agriculture Development Board received a complaint from Susan Gruss, who resides next to Plut's Farm, regarding lighting that the Pluts installed on the farm. (Exhibit A). The Morris CADB transferred the matter to the State Agriculture Development Committee on that same day, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-10.1, as there are no promulgated agricultural management practices for lighting of farms. (Exhibit B). Upon receiving a certification of Karolina Plut (Exhibit C), the owner of the farm, SADC staff determined that Plut's is a commercial farm under the definition of the Act. Specifically, the Pluts certified that their farm is greater than five acres and produces agricultural and/or horticultural products worth \$2,500 or more annually and is eligible for differential property taxation pursuant to the

Farmland Assessment Act. The Pluts also attached proof to show that their farm is located in an area in which agriculture has been a permitted use under its municipality's zoning and is consistent with its municipality's master plan.

SADC staff made a site visit to Plut's Farm on December 7, 2001 and took photographs of the operation and the lights. (Exhibit D). On December 18, 2001, Ms. Gruss sent a letter to the SADC via e-mail further describing her issues with the Pluts' lighting. (Exhibit E). Pursuant to the N.J.S.A. 4:1C-10.15b, SADC staff scheduled a public hearing and notified the Pluts and Ms. Gruss by letter dated January 17, 2002.

Issue

The issue before the SADC is whether 24-hour lighting of Christmas tree fields for one month of the year constitutes a generally accepted agricultural practice.

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 January 31, 2002 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
- Karolina Plut, Owner of Plut Christmas Tree Farm
- Michael Plut, Co-Manager of Plut Christmas Tree Farm
- Frank Plut, Co-Manager of Plut Christmas Tree Farm
- Katherine Coyle, Assistant Director, Morris County Agricultural Development Board

The complainant, Susan Gruss, did not attend the hearing. After she failed to appear, SADC staff telephoned her. Ms. Gruss stated that she was not going to attend the hearing, but that she would like to submit a written description of her complaints,

which she did via e-mail on February 4, 2002. (Exhibit F).

Susan Gruss's Complaint

Ms. Gruss stated in writing that Plut's Farm is located in the middle of a residential zone and that the "newly installed spotlighting in the farm fields is a nuisance and detriment to the area." She described the effect of the lighting, stating that "[o]ur area is much like daylight (at night) between Thanksgiving and Christmas. This is an annoyance when sleeping." Ms. Gruss contended that security is not an issue because the property is surrounded by fencing during the fall and winter. She also stated that various other tree farms and produce farms do not have field lighting and that Washington Township does not permit dusk to dawn lighting. Ms. Gruss stated that customers are only permitted to shop at Plut's until dusk, so there is no need for the lighting.

Pluts' Testimony

The Pluts purchased their 15-acre farm in 1967 and began planting Christmas trees in 1968. In 2001, they conveyed a development easement to Washington Township for farmland preservation purposes. They have approximately 13,000 trees, consisting of Fraser Fir, Douglas-fir, Blue Spruce, White Pine and Caanan fir.

The Pluts currently sell Christmas trees and operate a small retail space where they sell wreaths and other Christmas related items. They have a "choose and cut" operation, where customers are permitted onto the fields to choose a tree. Michael Plut testified that although there is a sign at the farm indicating that the farm closes at dusk, their hours are flexible during their busy season. He testified that if customers arrive after dusk, they do not turn them away, as their marketing season is so short.

Michael Plut testified that the Pluts allow customers to reserve a tree as early as October.

The tree gets “tagged” and the customers return at a date closer to Christmas to purchase the tree.

The Pluts stated that they have been lighting their fields for 15 to 20 years. They currently illuminate 3 acres of the fields where customers have access. They testified that they installed the lights for safety, security and sales purposes. They want their customers to see the trees and to be able to see where they are walking in the fields. The Pluts keep the lights on for 24 hours a day for 30 days before Christmas. They testified that it is necessary to keep the fields lit 24 hours a day to protect the trees from theft. Although there is a fence around the fields, they have found that the best method of preventing theft is a combination of the fencing and lighting. The Pluts explained that when customers tag a tree and then return to find that the tree was stolen, they are very upset and disappointed.

The lighting entails two 85-watt bulbs attached to three poles, totaling six bulbs. The bulbs are approximately 25-30 feet above the ground. The Pluts have electrical permits for the lighting. The Pluts testified that the poles are 216 feet from their property line. They testified that Ms. Gruss’s house is an additional 35 to 40 yards from the property line. Ms. Plut testified that the bulbs are high off the ground and are pointed directly down so that the area of illumination is limited and does not extend past the property line.

2. Industry Standards

SADC staff contacted various experts in the Christmas tree industry. According to these experts, it is not common practice to light Christmas tree fields 24 hours a day nor to allow the public onto production areas at night. There are no lighting standards for Christmas tree growers and sellers in New Jersey, probably because it is not common practice to allow customers onto the fields at night.

Charlie duPras, a former agricultural extension agent in New Jersey and a current

Christmas tree grower, informed the SADC that most growers in New Jersey do not have their production area accessible to the public at night and that there are no lighting standards for Christmas tree growers and sellers.

John Benton, President of the Christmas Tree Growers Association of New Jersey, was also unaware of any lighting standards for Christmas tree growers. He, too, stated that most New Jersey growers do not allow customers in production areas at night. John Perry, Executive Secretary of the Association confirmed that it is not generally accepted in New Jersey for Christmas tree growers to allow customers in production areas at night. He was not aware of any lighting standards for retail Christmas tree sales in production areas. Mr. Perry suggested that if growers are lighting their production areas, they should use shields on their lights.

Dr. Mark Vodak, a Rutgers Cooperative Extension Agent, also stated that the lighting of a Christmas tree production area in New Jersey is unusual.

According to the "2001 Choose & Cut Christmas Tree Guide," published by the New Jersey Christmas Tree Growers' Association, out of 98 operations in the guide that listed their hours of operation, 90 operations close by 5:30 p.m., or at dusk/dark. Eight operations close after 5:30 p.m. Of those eight farms, four farms close at 6:00 p.m.; one at 6:30; one at 7:00 on weekdays and 8:00 on weekends; one at 8:00 and one at 9:00.

Determination

Based upon the record, and in accordance with the input of the Christmas tree industry experts in New Jersey, lighting Christmas tree fields 24 hours a day is not a generally accepted practice in New Jersey. Although the lighting installed by the Pluts does not appear excessive and seems to have been installed to create a small area of illumination with the least amount of disturbance to their neighbors, 24 hour lighting is not a generally accepted practice in New Jersey.

Date: February 26, 2002

Committee

Marci D. Green
Public Hearing Officer
State Agriculture Development