

January 28, 2003

To: Dave McKeon
Administrator, Ocean CADB

From: Marci D. Green
Chief of Legal Affairs, SADC

Subject: Mielei/Right to Farm Hearing
Jackson Township, Ocean County

Enclosed please find the SADC's hearing report for the above-referenced matter. The SADC adopted the report at its January 23, 2003 meeting. Pursuant to N.J.S.A. 4:1C-10.1c, the Ocean CADB is required to hold a public hearing and issue its findings and recommendations within 60 days of the receipt of the SADC's decision.

Encl.

c: Barbara and Albert Manetti
James Miele

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

Hearing Report

Re: Miele Horse Farm

Township of Jackson, Ocean County

Aggrieved Party: Barbara and Albert Manetti

Date of Hearing: November 12, 2002

Background

James Miele owns and operates a 55-acre horse farm in Jackson Township, Ocean County, Circle M Farm. He owns, boards and trains horses, including standardbred horses, on the farm. Neighboring property owners, Barbara and Albert Manetti, sent a letter to the Ocean County Agriculture Development Board on April 4, 2002 in which they complain of dirt from the training track on Circle M Farm blowing onto their property.

The Ocean County Agriculture Development Board (CADB) forwarded the complaint to the State Agriculture Development Committee (SADC) on April 4, 2002 pursuant to the Right to Farm Act, N.J.S.A. 4:1C-10.1c, as the activities that are the subject of the complaint are not addressed by an agricultural management practice promulgated by the SADC. (Exhibit 1).

On April 8, 2002, the Manettis sent another letter to the Ocean CADB describing in more detail their issues with Circle M Farm. (Exhibit 2). Specifically, Mrs. Manetti alleges that the horse track is graded without the use of water, causing dirt to cover their property, house and vehicles. Mrs. Manetti also alleges that Mr. Miele spreads horse manure on the boundary of their property and that the odors travel to her backyard and deck. The Ocean CADB forwarded this letter to the SADC.

James Miele submitted a certification form to the SADC, establishing that his operation meets the Act's definition of a "commercial farm." SADC staff visited the Mannettis' property on June 19, 2002 and the Miele Farm on June 20, 2002. Staff inspected and photographed both properties. (Exhibits 3 and 4). Pursuant to the N.J.S.A. 4:1C-10.15b, the SADC scheduled a public hearing for November 12, 2002 and notified Mr. and Mrs. Manetti and James R. Miele by letter dated October 30, 2002.

Issue

The issue before the SADC is whether the maintenance of the horse track and spreading of manure conform to generally accepted agricultural practices.

Summary of Relevant Facts

A hearing was held at the New Jersey Department of Agriculture on November 12, 2002. Mrs. Manetti faxed a letter to the SADC on November 11, 2002 advising that she could not attend the hearing because of a shoulder injury. She restated her complaints in the letter. (Exhibit 5)

James Miele attended the hearing, and Ray Tinagero who also lives on the farm, Dave McKeon, Administrator of the Ocean CADB. Lynn Mathews, Equine Specialist for the New Jersey Department of Agriculture testified as an equine expert.

Mr. Miele's Testimony

Mr. Miele testified that he has been on this farm since 1984 and that the property was an equine operation for 13 years prior to that. Mr. Miele owns, trains and boards horses, including standardbred horses.* Before purchasing this farm, he owned another standardbred horse farm in Piscataway for many

* This report does not address the impact of the ownership of Mr. Miele's horses.

years. The Manettis moved to their house the same year Mr. Miele moved to this farm.

Mr. Miele conditions his track two to three times each day. Water is generally sprayed on the track with the first conditioning. He explained that the water serves to keep the dust down, but also to “set” the track. Standardbred training tracks need to have a firm foundation because the horses pull a cart and driver behind them. Water is necessary to keep the track firm, as it holds the stone dust on the track. Mr. Miele testified that watering the track is standard industry procedure for standardbred horse training because if not watered, the track will fall apart and will not be firm enough for the proper training.

He stated that the Manettis have been complaining about dust for two years and that he has not changed his track maintenance practices. (Mrs. Manetti alleged in her November 11, 2002 letter that after contacting the New Jersey Department of Agriculture, the “farm operation” had improved.)

Mr. Miele also noted that the prevailing winds are in the direction opposite from the Manettis’ property. He stated that there is a dirt road on the other side of the Manettis’ property that is heavily trafficked, and the prevailing winds could carry dirt from the road onto the Manettis’.

He added that in a dry year, there is going to be more dust, and last year was a particularly dry year.

Mr. Miele stores manure on the side of his farm that is furthest from the Manetti property. The manure is removed from the property all year long, except for late fall and winter, when he spreads it on his pasture field, which is adjacent to the Manettis’ property. Mr. Miele described the boundary between his property and the Manettis’: there is a fence, a 30 foot lane, and a row of trees separating the two properties. The trees were intentionally left on his property to create a buffer between the two properties.

Mr. Miele said that he never spreads manure on the thirty-foot lane. He testified that whenever he spreads the manure on the field, the Manettis complain about the odor. He emphasized that he only spreads the manure on the fields in the late fall and winter as fertilizer for the fields. The manure is not incorporated into the soil, but is covered with lime in the spreader. Mr. Miele testified that Jackson Township requires the lime to be placed on the manure in the spreader and that he complies with this requirement.

Dave McKeon

Dave McKeon provided information regarding the involvement of the Ocean County Health Department. (See below).

Lynn Mathews

Lynn Matthews has been an Equine Specialist for the New Jersey Department of Agriculture for 16 years. She also worked with the New Jersey Sire Stakes program prior to that and has been involved with showing and training race horses most of her life.

Ms. Matthews inspected the farm on June 20, 2002. She testified that the farm, including the track, was very well kept and well managed. In her opinion, the track maintenance conforms to generally accepted industry standards in New Jersey. Ms. Matthews testified that watering a track once a day is “ample” watering and that Mr. Miele’s track is “equal to the tracks that you see everywhere, probably watered more than some.” She observed the water truck and two types of drags used for screening and grading the track. When she inspected the farm, she said that the track appeared to have been watered in the morning and conditioned once or twice a day.

In her opinion, Mr. Miele maintains the track the way he manages the rest of the farm – “He takes good care of things.” She noted that a farm like this is going to generate dust, whether there is one horse or five horses, no

matter how well the track is maintained. She said that normally, such dust dissipates quickly and does not travel a “great distance.”

With regard to manure spreading, Ms. Mathews explained that Rutgers University recommends the spreading of horse manure with lime.

Industry Standards

The SADC has not promulgated any agricultural management practices for horse track maintenance or the application of horse manure as fertilizer. The standard, therefore, is whether Mr. Miele’s practices conform with generally accepted practices.

There are no written guidelines in New Jersey regarding horse training track maintenance or effective dust control for horse tracks. According to the testimony of Ms. Mathews and Mr. Miele, standardbred race track maintenance requires the track to be sufficiently wet to maintain the track’s firmness and to set the stone dust. It is the opinion of Ms. Mathews and Mr. Miele that watering a track once a day is sufficient to keep the track firm and set the dust and is the generally accepted agriculture management practice in New Jersey.

With regard to the spreading of manure, it is generally accepted in New Jersey for horse operations to use horse manure as fertilizer on their pasture fields. According to Dan Jones of the Natural Resource Conservation Service, the application of horse manure on pasture fields is generally accepted as long as the manure is not placed on top of snow-covered fields. He explained that lime cuts the ammonia in the manure, reducing the odor. Jackson Township has a regulatory ordinance that requires lime to be placed on manure stockpiles at least once a week, but does not require lime to be spread with manure.

Health Issues and Municipal Standards

The Manettis began complaining to the Ocean County Health Department in April 2001. The Health Department inspected the property 17 times between April 3, 2001 and May 14, 2001. (See Reports attached as Exhibit 6). The inspectors never found any cause for further action. They observed grading of the track, each time with water except on one occasion. The inspector observed minimal to no dust most of the time. On the occasions where they observed larger amounts of dust as a result of the horses running on the track or the grading of the track, they observed that the dust was not blowing toward the Manettis' house or found that the dust was very localized and not blowing at all.

The health inspectors also noted that it had been a dry season, which contributes to the creation of dust. On one visit, Bill Fox, Chairperson of the Ocean CADB and Mr. McKeon accompanied the health inspectors. The report notes that Messrs. Fox and McKeon indicated that "what they witnessed was considered standard farm practice."

The reports demonstrate that the County Health Inspectors diligently investigated the Manettis' complaints. They varied the time of their visits to the Miele Farm in response to the Manettis' complaints that the inspectors were visiting at the wrong time, i.e., when the track was not being graded. When they inspected at the time the track was being graded, they continued to observe only a minimal amount of dust. In sum, the Health Department did not find any health violations or cause for further action.

Mr. McKeon testified that he spoke to a Jackson Township zoning officer on April 8, 2002 who was familiar with the Manettis' complaints and that the zoning officer stated that he did not believe there was a basis for the complaints.

Conclusions and Determination

Based upon the industry standards set forth above, it appears that Mr. Miele's track maintenance and manure spreading practices conform with generally accepted agricultural management practices.

Marci D. Green
Public Hearing Officer
State Agriculture Development Committee

Date: January 17, 2002

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