

**RESOLUTION OF THE SALEM COUNTY AGRICULTURE DEVELOPMENT BOARD
IN THE MATTER OF HOLLYWOOD v. WALKER BROTHERS, INC., ET ALS., A
RIGHT TO FARM COMPLAINT FILED PUSUANT TO THE RIGHT TO FARM
STATUTE'S CONFLICT RESOLUTION PROVISIONS, REFERRING THE
COMPLAINT TO THE NEW JERSEY STATE AGRICULTURE DEVELOPMENT
COMMITTEE FOR A DETERMINATION ON THE MERITS**

WHEREAS, on or about September 30, 2015, petitioners herein, Todd and Stephanie Hollywood (hereinafter "the Hollywoods" and/or "the petitioners") filed a Right to Farm Complaint (hereinafter "Complaint") pursuant to N.J.S.A. 4:1C-10.1, et seq. and N.J.A.C. 2:76-2.1, et seq. against defendants herein, Walker Brothers, Inc., Everett Walker, and Scott Walker (hereinafter "the Walker Brothers"); and

WHEREAS, the Hollywoods' Right to Farm Complaint alleges that the Walker Brothers' farming activities allow for excessive stormwater runoff, flooding, standing water, erosion, and nonpoint source pollution from its farm field located between _____ in the Township of Pittsgrove, County of Salem, State of New Jersey, to cause flooding, soil deposit, and pollution deposit in and/or at the surrounding homes, fields, and roadways, and specifically at the Hollywoods' home located at _____ the Township of Pittsgrove, County of Salem, State of New Jersey; and

WHEREAS, at a public meeting on Wednesday, November 11, 2015, the Salem County Agriculture Development Board (hereinafter "CADB") determined that the Walker Brothers farming operation is a "commercial farm" pursuant to N.J.S.A. 4:1C-3 based upon documentation supplied by the Walker Brothers that satisfied the requirements of the Right to Farm Act's requirement that the farming operation be a "commercial farm" as the statute so defines "commercial farm;" and

WHEREAS, at a public meeting conducted on December 2, 2015, the CADB concluded that the Hollywood v. Walker Brothers, Inc., et als. Right to Farm Conflict Resolution administrative procedure must be held in abeyance until the concurrent New Jersey Superior Court matter alleging nuisance violations against the Walker Brothers was dismissed without prejudice, placed on an inactive list, or otherwise suspended to permit the completion of the Administrative process; and

WHEREAS, prior to a public meeting conducted on January 27, 2016, the CADB by and through its attorney Emily A. McDonough, Esq. received confirmation in the form of a Court Order that the concurrent New Jersey Superior Court matter was dismissed without prejudice, permitting the Right to Farm Act Conflict Resolution administrative procedure to continue; and

WHEREAS, at a public meeting conducted on January 27, 2016, the CADB addressed the jurisdictional question, to wit, whether the Hollywoods' Right to Farm Complaint concerns activities that are governed by existing agricultural management practice(s) (hereinafter "AMP") recommended by the New Jersey State Agriculture Development Committee and adopted pursuant to the provisions of the New Jersey Administrative Procedure Act under N.J.S.A. 52:14B-1, et seq. and N.J.A.C. 2:76-2.2; and

WHEREAS, on page 2 of the Complaint, petitioners allege that the Walker Brothers are in violation of Pittsgrove Township Ordinances 109-2.1(a), (b), (c), (g), 109-2.2, 109-8.1, 109-8.2, and 109-8.3 by virtue of "significant flooding and hazardous conditions occur[ing] from draining issues stemming from the farm field and the woods located behind the open field," for which the CADB has concluded there is no governing AMP, to wit, governing the violation of a municipal ordinance, or, with particularity, governing the violation of a municipal ordinance regarding flooding, nuisances, and/or hazardous conditions; and

WHEREAS, on page 3 of the Complaint, petitioners allege that the direction in which the Walker Brothers have planted their crop rows is improper and allows for stormwater flooding, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on page 3 of the Complaint, petitioners allege laying water has created a mosquito issue, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on page 3 of the Complaint, petitioners allege flooding and draining conditions have created a nuisance, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on page 3 of the Complaint, petitioners allege that cover crops are not consistently planted, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on pages 3 and 4 of the Complaint, petitions allege that soil and pesticide contaminated water is flooding their property, for which AMP 2.76-A.7, the Natural Resource Conservation AMP might be implicated, however, the CADB has concluded that the issue of stormwater runoff is not addressed in AMP 2.76-A.7, and, accordingly, there is no AMP that governs petitioners' specific concern; and

WHEREAS, on pages 5 through 7 of the Complaint, petitioners allege that the Walker Brothers are in violation of the stormwater management and best management practices (BMPs) for stormwater management sections of the Township of Pittsgrove's Master Plan, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on pages 8 and 9 of the Complaint, petitioners allege that the Walker Brothers are in violation of Salem County Land Development Standards and Resolutions regarding the design of stormwater runoff, collection, and conveyance systems, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on pages 10 and 11 of the Complaint, petitioners allege that the Walker Brothers are in violation of the Code of Federal Regulations, specifically, those regulations addressing Highly Erodible Land Conservation, for which AMP 2.76-A.7, the Natural Resource Conservation AMP might be implicated, however, the CADB has concluded that because this section of petitioners' Complaint continues to implicate stormwater runoff management, as well as irrigation system water management, there is no AMP that governs petitioners' specific concern; and

WHEREAS, on pages 12 and 13 of the Complaint, petitioners allege violation of AMP 2.76-2A.7, that is, the Natural Resource Conservation AMP, however, the CADB has concluded that because the Walker Brothers have an existing Conservation Plan developed by the Natural Resource Conservation Service (NRCS), and because this section of petitioners' Complaint continues to implicate flooding, AMP 2.76-2A.7 does not fully, completely, or otherwise satisfactorily, address the disputed activities in petitioners' Complaint; and

WHEREAS, on pages 14 through 16 of the Complaint, petitioners allege the Walker Brothers are in violation of the New Jersey Water Pollution Control Act, the Safe Drinking Water Act, and the federal Clean Water Act, for which the CADB has concluded there are no governing AMPs; and

WHEREAS, on page 16 of the Complaint, petitioners allege the Walker Brothers have improperly created nonpoint source pollution on petitioners' property, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on pages 17 through 21 of the Complaint, petitioners allege violation of the Right to Farm Act's permissible activities provisions under N.J.S.A. 4:1C-9 and a progeny case, Villari v. Zoning Board of Adjustment, 277 N.J. Super. 130 (App. Div. 1994), for which the CADB notes is a future consideration based upon the determination of whether the disputed activities are entitled to Right to Farm protection, but in any event, for which the CADB has concluded there is no governing AMP; and

WHEREAS, on page 23 of the Complaint, petitioners' submission to the CADB concludes with a restatement of the authorities petitioners allege the Walker Brothers have violated and a recapitulation of the disputed activities, stating with particularity that "flooding occurrences do

not have to be a named storm of any significant amount of rain totals...”, that the Walker Brothers “have known about the long documented history of flooding occurring from their farm field,” and that “erosion occurring on the field and neighboring homes is unacceptable...;” and

WHEREAS, public discussion on the record was held by the voting members of the Salem County Agricultural Development Board as to whether the particular activities identified with specificity in the Hollywoods’ Complaint, together with the Board’s understanding of the Hollywoods’ overall general complaints, at the meeting on January 27, 2016; and

WHEREAS, the CADB, after meaningful discussion and deliberation, concluded that although erosion is implicated in the Complaint, the Complaint also includes multiple references to flooding, drainage issues, and stormwater management, and in the CADB’s estimation, flooding, drainage issues, and stormwater management constitute the primary concerns in the Complaint; and

WHEREAS, the CADB, after meaningful discussion and deliberation, concluded that there are no existing AMPs that provide guidance to the CADB on the issues of flooding, drainage, and stormwater management; and

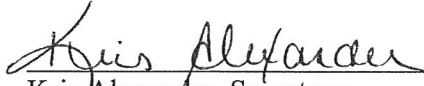
WHEREAS, the Salem County Agricultural Development Board unanimously voted, in a vote of 7 in favor and 0 opposed, to refer the Right to Farm matter of Hollywood v. Walker Brothers, Inc., et als., to the New Jersey State Agriculture Development Committee to hear this Right to Farm Complaint,

NOW THEREFORE BE IT RESOLVED that the Salem County Agriculture Development Board hereby refers the Hollywood v. Walker Brothers, Inc., et als. Right to Farm Complaint to the New Jersey State Agriculture Development Committee based on the following determinations:

- A. Walker Brothers, Inc. is a “commercial farm” as defined by N.J.S.A. 4:1C-3; and
- B. Agriculture is permitted use on the farm under Pittsgrove Township’s municipal zoning ordinance; and
- C. The Salem County Board of Agriculture Development Board does not have jurisdiction to determine whether the activities complained of in the Hollywood v. Walker Brothers, Inc., et als. Complaint is a generally accepted agricultural practice entitled to Right to Farm protection; and

- D. The New Jersey State Agriculture Development Committee has jurisdiction to determine whether the disputed activities set forth in petitioner's Complaint constitute generally accepted agricultural practices entitled to Right to Farm protection; and
- E. Mandatory referral from the Salem County Agriculture Development Board to the New Jersey State Agriculture Committee is codified in the Right to Farm Act under N.J.S.A. 4:1C-10.1(c).

I, Kris Alexander, Secretary to the Salem County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of a Resolution adopted by the Salem County Agriculture Development Board at a meeting held on January 27, 2016.


Kris Alexander, Secretary

2/24/16
Date